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PROCEEDINGS AND ORDERS

DATE: 032985

CASE NBR 84-1-00337 ASY
SHORT TITLE Crumpacker, Owen W.
VERSUS IN Sup. Ct. Discip. Commn.

DOCKETED: Aug 31 1984

Date	Proceedings and Orders
Jun 25 1984	Application for extension of time to docket appeal and order granting same until September 1, 1984 (Stevens. August 13, 1984).
Aug 31 1984	Statement as to jurisdiction filed.
Aug 31 1984	Appendix of appellant Owen W. Crumpacker filed.
Sep 27 1984	Motion of appellee IN Supreme Court Disciplinary Comm. to dismiss or affirm filed.
Oct 3 1984	DISTRIBUTED. October 26, 1984
Oct 29 1984	REDISTRIBUTED. November 2, 1984
Nov 5 1984	REDISTRIBUTED. November 9, 1984
Nov 13 1984	REDISTRIBUTED. November 21, 1984
Nov 26 1984	REDISTRIBUTED. November 30, 1984
Dec 10 1984	REDISTRIBUTED. January 4, 1985
Jan 7 1985	REDISTRIBUTED. January 11, 1985
Jan 14 1985	REDISTRIBUTED. January 18, 1985

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PROCEEDINGS AND ORDERS

DATE: 032985

ASE NBR 84-1-00337 ASY
HORT TITLE Crumpacker, Owen W.
VERSUS IN Sup. Ct. Discip. Commn.

DOCKETED: Aug 31 1984

Date	Proceedings and Orders
Feb 1 1985	REDISTRIBUTED. February 15, 1985
Feb 19 1985	REDISTRIBUTED. February 22, 1985
Mar 18 1985	REDISTRIBUTED. March 22, 1985
Mar 25 1985	Appeal DISMISSED for want of a substantial federal question. Separate opinion by the Chief Justice. (Detached opinion.) Justice Powell OUT.

****

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84-337

Office - Supreme Court, U.S.
FILED
AUG 31 1984
ALEXANDER L. STEVAS
CLERK

No.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

IN THE MATTER OF OWEN W. CRUMPACKER

OWEN W. CRUMPACKER, *Appellant,*

v.

INDIANA SUPREME COURT DISCIPLINARY COMMISSION, *Appellee*

On Appeal From a Judgment Entered By The Indiana Supreme Court in an Original Action in Said Court Convicting Appellant of Indirect Criminal Contempt and Sentencing Him to Serve a Prison Term in the Department of Correction.

JURISDICTIONAL STATEMENT

Andrew G. Kohlan, Esq.
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Fridley, MN 55432
Attorney For Appellant

NO.

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JURISDICTIONAL STATEMENT

I

QUESTIONS PRESENTED BY THE APPEAL

On April 4, 1984, appellant, a 72-year old lawyer residing in Hammond, Lake County, Indiana, was convicted and sentenced to prison for indirect criminal contempt by the Indiana Supreme Court sitting in Indianapolis, Marion County, Indiana, in an original action instituted and prosecuted by the Supreme Court of Indiana.* (n. 1 infra)

---

*n. 1: Saul I. Ruman, a Hammond, Indiana, attorney, filed a complaint under Sec. 10, A & D Rule 23, on September 25, 1973. He petitioned for a review of the Hearing Officer's Findings, Conclusions of Law, and Recommendations filed on November 9, 1976, all of which were in appellant's favor. The State of Indiana was not a party to the proceedings, but is being served with a copy of the Jurisdictional Statement because of the Constitutional issues presented. The Indiana Supreme Court financed the proceedings in their entirety and acted by and through the Executive Secretary of the Indiana Supreme Court Disciplinary Commission, which is appointed by the Indiana Supreme Court.

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The questions presented on appeal are the following:

1. Whether the Provisions of the IV, V, VI and XIV Amendments to the Constitution of the United States bar the Indiana Supreme Court from instituting Criminal Proceedings, Prosecuting Them, and Convicting him, a private citizen, of the Crime of Indirect Criminal Contempt.

2. Whether the procedures adopted by the Indiana Supreme Court in Seizing a Citizen of Hammond, Lake County, Indiana, and Trying and Convicting Him in Indianapolis, Marion County, Indiana, On The Same Day (April 4, 1984) pursuant to a Bench Warrant issued in Indianapolis on November 16, 1983, are Void as Constituting a Deprivation of the Citizen's Rights to Procedural Due Process and Equal Protection of the Laws as guaranteed By

The V and XIV Amendments To The United States Constitution.

3. Whether the Indiana Supreme Court has Jurisdiction Under The United States and Indiana Constitutions and Statutes to Charge and Try A Citizen in Indianapolis, Marion County, Indiana, for Crimes Allegedly Committed in Hammond, Lake County, Indiana.

4. Whether a 27-page Disciplinary Action, Filed With The Clerk of the Indiana Supreme Court on November 29, 1978, Without Notice And/Or Hearing, Purporting To Permanently Disbar a Lawyer is Void as Violative of the Procedural Due Process Clauses of the United States and Indiana Constitutions.

5. Whether the Void Character of The Disciplinary Action May Be Urged as Defense Under the Due Process and

Equal Protection Clauses of the United States and Indiana Constitutions in An Original Action Filed and Prosecuted by the Indiana Supreme Court for the Purpose of Convicting a Citizen of Willful and Intentional Violation of the Disciplinary Action.

6. Whether The Continued And Unrelenting Prosecution of a Lawyer Over a Period of Twelve (12) Years Constitutes a Violation of a Citizen's Right To Protection Against Cruel and Unusual Punishment Guaranteed By The VIII Amendment to the United States Constitution.

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IV

OPINIONS BELOW

These proceedings grow out of a Complaint filed on September 25, 1973, by Saul I. Ruman, a Hammond, Indiana, attorney. (See Note 1, page ii, supra.) Formal charges were filed below on September 17, 1974. After a 31-day trial and on November 9, 1976, the Hearing Officer filed Findings of Fact, Conclusions of Law, and Recommendations in appellant's favor. (App., A-85 to A-99) Over two years later, on November 29, 1978, and without notice or hearing, a 27-page Disciplinary Action, purporting to permanently disbar appellant as a lawyer, was filed in the Clerk's Office at Indianapolis. In the Matter of Owen W. Crumpacker, Original Cause No. 974 S 187, 269 Ind.

630; 383 NE2d 36; cert. denied 100 S.Ct. 481; 444 US 979; 62 L.Ed.2d 406. On January 23, 1981, the Disciplinary Commission filed its first Verified Information for Contempt and Petition for Order to Show Cause containing twenty-nine (29) counts of alleged criminal misconduct consisting of incidents of the alleged practice of law in willful violation of the Disciplinary Action filed on November 29, 1978. Followig a trial at Indianapolis and on January 27, 1982, the Indiana Supreme Court adopted a decision, ten pages in length, under the caption: "Contempt Proceeding ." Appellant was found guilty of both direct and indirect criminal contempt and sentenced to serve 90 days in the Department of Correction on each finding, the sentences to run concurrently. The

decision was filed, officially, on February 11, 1982, and published in the reports. In the Matter of Owen W. Crumpacker, Cause No. 974 S 187, ___ Ind.___; 431 NE2d 91 (1982); appeal dismissed for want of a substantial federal question, October 5, 1982, No. 82-5066, 101 S.Ct. 25.

A second Verified Information for Contempt and Petition for Order to Show Cause, consisting of six (6) counts was filed on July 25, 1983. A hearing was held before the Supreme Court of Indiana, sitting en banc, on November 15, 1983, and witnesses heard and documents introduced in the absence of the appellant. The Supreme Court of Indiana took the decision under advisement and ordered the issuance of a bench warrant

for appellant's arrest (App. A-53 through A-57). On April 4, 1984, appellant was taken in custody in Hammond, Indiana, driven to Indianapolis, where he was tried, convicted and sentenced to serve thirty (30) days in the Department of Correction. The proceedings at the hearing, including the findings and sentence, are set out in the Appendix at A-1 through A-49. The final decision and judgment are set out in the Appendix at A-63 through A-64, followed by the order of commitment at A-66 through A-70. The Indiana Supreme Court, on April 4, 1984, scheduled appellant's further appearance for May 21, 1984. (App. A71-A72) Because of scheduled surgery on appellant's eyes (macular degeneration and cataracts), the further hearing has been continued to be re-scheduled.

V

CONCISE STATEMENT OF THE GROUNDS ON WHICH THE JURISIDCTION OF THE COURT IS INVOKED

(i) The Indiana Supreme Court, acting by and through its Disciplinary Commission, filed a second Verified Information for Contempt and Petition for Order to Show Cause on July 25, 1983. A Rule to Show Cause was issued, ex parte, over the signature of the Chief Justice of the Indiana Supreme court, Hon. Richard M. Givan, on August 15, 1983. Appellant served and filed his verified motion to quash and dismiss for lack of jursidiction. The case was heard on the merits in appellant's absence on November 15, 1983, and an arrest warrant issued. Appellant was arrested, brought before the Supreme

Court of Indiana at Indianapolis, tried for failing to appear on November 15, 1983, and convicted and sentenced on the same day, to-wit: April 4, 1984.

(ii) The finding and judgment sought to be reviewed in this appeal were entered on April 4, 1984. The Notice of Appeal was filed with the Clerk of the Indiana Supreme Court on April 12, 1984. (A73-A74) An amended Notice of Appeal was served and filed on May 30, 1984. (A81-A84) The time for docketing the appeal was extended to and including September 1, 1984, by an order entered by Mr. Justice Stevens on August 13, 1984. (A100)

(iii) Appellant alleges that this Court has jurisdiction to hear and determine the appeal under 28 USC §1257(b) and the Constitution of the United States. Appellant urges that the procedures adopted by the Indiana

Supreme Court are violative of his constitutional rights under Amendments IV, V, VI, VIII and XIV of the United States Constitution. See S. Edward Bloom v. State of Illinois (1968) 391 U.S. 194, 20 L.Ed.522, 88 S.Ct. 1477.

VI

CONSTITUTIONAL PROVISIONS, STATUTES, AND COURT RULES INVOLVED

A. Pertinent Provisions of The Bill of Rights of The United States Constitution

AMENDMENT IV--SEARCHES AND SEIZURES. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. (U.S.C.A., Const., p. 361.)

AMENDMENT V--CAPTIAL CRIMES; DOUBLE JEOPARDY; SELF-INCRIMINATION; DUE PROCESS; JUST COMPENSATION FOR PROPERTY--No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, "nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation." (U.S.C. Const.)

AMENDMENT VI--JURY TRIAL FOR CRIMES, AND PROCEDURAL RIGHTS--In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence. (U.S.C.A., Const.)

AMENDMENT VIII--EXCESSIVE BAIL, FINES, PUNISHMENTS--Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. (U.S.C.A., Const.)

AMENDMENT XIV--CITIZENSHIP; PRIVILEGES AND IMMUNITIES; DUE PROCESS; EQUAL PROTECTION; APPORTIONMENT OF REPRESENTATION; DISQUALIFICATION OF OFFICERS; PUBLIC DEBT; ENFORCEMENT--Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. (U.S.C.A., Const.)

B. Federal Statutes and Rules

18 U.S.C. §1964(a)(c): CIVIL REMEDIES--

(a) The district courts of the United States shall have jurisdiction to prevent and restrain violations of section 1962 of this chapter by issuing appropriate orders, including, but not limited to: ordering any person to divest himself of any interest, direct or indirect, in any enterprise; imposing reasonable restrictions on the future activities or investments of any person, including, but not limited to, prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect interstate or foreign commerce; or ordering dissolution of reorganization of any enterprise, making due provision for the rights of innocent persons.

* * * * *

(c) Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district Court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee.

18 U.S.C. Section 245. FEDERALLY PROTECTED ACTIVITIES.

* * * * *

(b) Whoever, whether or not acting under color of law, by force or threat

of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with --

(1) Any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from --

(A) voting or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting or acting as a poll watcher, or any legally authorized election election official, in any primary, special, or general election;

(B) participating in or enjoying any benefit, service, privilege, program, facility, or activity provided or administered by the United States.

NOTE; 42 U.S.C. Sect.1983; 42 U.S.C. Sect.1985; 42 U.S.C. Sect.1988. Pertinent Provisions are quoted in the Appendix fIled under separate cover in support of the Jurisdictional Statement. (See App. pp. A109-A112.)

C. Applicable Provisions of The Indiana Constitution

ARTICLE 1, BILL OF RIGHTS, SECTION 11 -- Unreasonable search or seizures.-- The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable search, or seizure, shall not be violated; and no warrant sh-ll issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized. (Burns Ind. Stat. Ann. Code

Ed., Const., p. 10)

ARTICLE 1, BILL OF RIGHTS, SECTION 12--COURTS OPEN--DUE COURSE OF LAW--ADMINISTRATION OF JUSTICE. All courts shall be open; and every man, for injury done to him in his person, property, or reputation, shall have remedy by due course of law. Justice shall be administered freely, and without purchase; completely, and without denial; speedily, and without delay. (Burns Ind. Stat. Ann. Code Ed., Const., p. 21.)

ARTICLE 1, BILL OF RIGHTS, SECTION 13--RIGHTS OF ACCUSED. In all criminal prosecutions, the accused shall have the right to a public trial, by an impartial jury, in the county in which the offense shall have been committed; to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor. (Burns Ind. Stat. Ann. Code Ed., Const., p. 36.)

ARTICLE 1, BILL OF RIGHTS, SECTION 14--FORMER JEOPARDY--SELF-INCRIMINATION. No person shall be put in jeopardy twice for the same offense. No person, in any criminal prosecution, shall be compelled to testify against himself. (Burns Ind. Stat. Ann. Code Ed., Const., p. 55.)

ARTICLE 1, BILL OF RIGHTS, SECTION 16--EXCESSIVE BAIL, PUNISHMENT, AND PENALTIES. Excessive bail shall not be required. Excessive fines shall not be imposed. Cruel and unusual punishment shall not be inflicted. All penalties

shall be proportioned to the nature of the offense. (Burns Ind., Stat. Ann. Code Ed., Const., p. 64.)

ARTICLE 1, BILL OF RIGHTS SECTION 17--BAILABLE OFFENSES. Offenses, other than murder or treason, shall be bailable by sufficient sureties. Murder or treason shall not be bailable, when the proof is evident, or the presumption strong. (Burns Ind. Stat. Ann. Code Ed., Const., p. 68.)

ARTICLE 7, SECTION 7, JUDICIAL--JURISDICTION OF SUPREME COURT. The Supreme Court shall have no original jurisidiction except in admission to the practice of law; discipline or disbarment of those admitted; the unauthorized practice of law; supervision of the exercise of jurisdiction by the other courts of the State; and issuance of writs necessary or appropriate in aid of its juridiction.

ARTICLE 7, SECTION 18, CRIMINAL PROSECUTIONS. All criminal prosecutions shall be carried on in the name and by the authority of the state; and the style of all process shall be: "The State of Indiana."

D. Applicable Indiana State Statutes;

BURNS STATUTES CODE EDITION, VOLUME 33, SECTION 33-1-5-1, ENGAGING IN PRACTICE BY PERSONS NOT ADMITTED--It is a Class B misdemeanor for a person to hold himself out as a practicing lawyer, to conduct the trial of a case in any court of this state, or to engage in the

business of a practicing lawyer, without first having been duly admitted as an attorney-at-law by the supreme court of this state. (As amended by Acts 1978, P.L.2, Sec. 3301.)

BURNS INDIANA STATUTES CODE EDITION, VOLUME 33, SECTION 33-1-5-3, BURDEN OF PROOF--In all prosecutions under this chapter, it shall not be necessary for the state to prove that the defendant has not been so admitted as an attorney-at-law, but the burden of proving such admission shall be on the defendant. (As amended by Acts 1981, P.L. 272, Sec. 2.)

BURNS INDIANA STATUTES CODE EDITION, VOLUME 33, SECTION 33-1-6-1, CALENDAR YEAR TERM--The term time and vacation time, as defined on December 31, 1967, of all courts of the state of Indiana are hereby abolished. The term of court for all courts shall be the calendar year and the judges of such courts shall have the same power to act in all matters and proceedings through the entire calendar year as such judges had prior to January 1, 1968 in term time. (As amended by Acts 1981, P.L. 272, SEC. 3.)

BURNS INDIANA STATUTES CODE EDITION, VOLUME 33, SECTION 33-1-13-1, DEFINITIONS--As used in this title:

"Crime" means a felony or a misdemeanor.

"Felony" means a violation of a statute for which a person might be imprisoned for more than one (1) year.

"Infraction" means a violation of a statute for which a person might be fined, but not imprisoned.

"Misdemeanor" means a violation of a statute for which a person might be imprisoned, but not for more than one (1) year.

"Offense" means a felony, a misdemeanor, an infraction, or a violation of a penal ordinance. (As added by Acts 1977, P.L.313, SEC.1.)

BURNS INDIANA STATUTES, CODE EDITION, VOLUME 33, SECTION 33-2-3-1, RULES AND REGULATIONS OF COURT--The Supreme Court of this state shall have exclusive jurisidiction to admit attorneys to practice law in all courts of the state and exclusive jurisidction to issue restraining orders and injunctions in all cases involving the unauthorized practice of the law under such rules and regulations as it may prescribe.

BURNS INDIANA STATUTES, CODE EDITION, VOLUME 34, SECTION 34-4-7-3, INDIRECT--DISOBEYING PROCESS.--Every person who shall be guilty of any willful disobedience of any process, or any order lawfully issued by any court of record, or by the proper officer thereof, under the authority of law, or the direction of such court after the same shall have been served upon him, shall be guilty of an indirect contempt of the court from which such process or order shall have issued. (Acts. 1879 (Spec. Sess.), ch. 35 §3, p. 112.).

BURNS INDIANA STATUTES, VOLUME 34, SECTION 34-4-7-6, PUNISHMENT--Punishments for contempt of court, under this act (34-4-7-10), may be by fine or imprisonment, or both, in the discretion of the court inflicting the same, but no

fine shall exceed the sum of five hundred dollars ($500), nor shall any imprisonment extend beyond the term of three (3) months. (Acts 1879 Spec. Sess.), ch. 35, §6, p. 112.)

BURNS INDIANA STATUTES, CODE EDITION, VOLUME 34, SECTION 34-4-7-8, INDIRECT--RULE TO SHOW CAUSE--In all cases of indirect contempt, the person charged therewith shall be entitled, before answering thereto, or being punished therfor, to have served upon him a rule of the court, against which the alleged contempt may be committed; which said rule shall clearly and distinctly set forth the facts which are alleged to constitute such contempt; and shall specify the time and place of such facts with such reasonable certainty, as to inform the defendant of the nature and circumstances of the charge against him; and shall specify a time and place at which he is required to show cause, in said court, why he should not be attached and punished for such contempt, which time the court shall, on proper showing, extend so as to give the defendant a reasonable and just opportunity to purge himself of such contempt. No such rule as hereinabove provided for, shall ever issue until the facts, alleged therein to constitute such contempt, shall have been brought to the knowledge of the court by an information, fully verified by the oath of affirmation of some officer of the court, or other responsible person. (Acts 1879 (Spec. Sess.), ch. 35, para. 8, p. 112.)

BURNS INDIANA STATUTES, CODE EDITION, VOLUME 35, SECTION 35-34-1-2, CONTENTS; REQUISITES; FORM--

(a) The indictment or information shall be in writing and allege the commission of an offense by:

(1) stating the title of the action and the name of the court in which the indictment or information is filed;

(2) stating the name of the offense in the words of the statute or any other words conveying the same meaning;

(3) citing the statutory provision alleged to have been violated, except that any failure to include such a citation or any error in such a citation does not constitute grounds for reversal of a conviction where the defendant was not otherwise misled as to the nature of the charges against him;

* * * * *

(b) An indictment shall be signed by:

(1) the foreman or five (5) members of the grand jury; and

(2) the prosecuting attorney or his deputy.

An information shall be signed by the prosecuting attorney or his deputy and sworn to or affirmed by him or any other person.

BURNS INDIANA STATUTES, CODE EDITION, VOLUME 35, SECTION 35-33-8-4, AMOUNT OF BAIL; ORDER; INDORSEMENT; FACTS TAKEN INTO ACCOUNT--

(a) The court shall order the amount in which a person charged by an

indictment or information is to be held to bail, and the clerk shall enter the order on the order book and indorse the amount on each warrant when issued. If no order fixing the amount of bail has been made, the sheriff shall present the warrant to the judge of an appropriate court of criminal jurisdiction, and the judge shall indorse on the warrant the amount of bail.

BURNS INDIANA STATUTES, CODE EDITION, VOLUME 35, SECTION 35-38-3-3, PERSONS CONVICTED OF MISDEMEANOR COMMITMENT; LOCAL FACILITIES--

(a) Except as provided by subsections (b) and (c), a person convicted of a misdemeanor may not be committed to the department of correction. If there are fewer than sixty (60) days remaining before his earliest possible release date. However, if the commissioner of the department of correction gives notice to a sheriff that he will pay a per diem under IC 11-8-3-3, then a person may not be committed to the department of correction unless there are more than one hundred eighty (180) days remaining before his earliest possible release date.

BURNS INDIANA STATUTES, CODE EDITION, VOLUME 35, SECTION 35-50-6-2, DISCHARGE FROM IMPRISONMENT FOR A MISDEMEANOR--A person imprisoned for a misdemeanor shall be discharged when he completes his fixed term of imprisonment, less the credit time he has earned with respect to that term. (As added by Acts 1976, P.L.148, SEC.8. Amended by Acts 1977, P.L.340, SEC.133.)

E. Applicable Rules of The Indiana Supreme Court;

Pursuant to the Constitutional Amendments of 1970 and statutes adopted implementing the same, the Supreme Court of Indiana on June 23, 1971, promulgated Admission and Discipline Rules #23 and #24 providing for the Disciplinary Commission, and setting forth the procedures and rules for the disciplining of attorneys and for the unauthorized practice of law. Pertinent provisions are set forth on Pages A-113 through A-119 of the Appendix.

VII

STATEMENT OF THE CASE

A

Statement of Facts Material to the Consideration of the Questions Presented

(1) Appellant Owen W. Crumpacker, age 72, a lawyer by profession, is and has been a citizen and resident of Hammond, Lake County, Indiana. For many years prior to October 20, 1978, he maintained law offices in Hammond. Prior to November 29, 1978 appellant was a member in good standing of the bars of the Supreme Court of the United States, the United States Court of Appeals for the 7th Circuit, the United States District Courts for the Northern and Southern Districts of Indiana, and the Indiana Supreme Court. He was, and had been since January 4, 1939, an active

trial lawyer.

(2) On April 4, 1984, appellant was a candidate for the office of United States Representative for the First Congressional District of Indiana in the primary election to be held on May 7, 1984. He had been the Republican Party's nominee for Congress in the November 7, 1978, general election.

(3) On September 17, 1974, disciplinary proceedings were filed in the Supreme Court of Indiana by Richard H. Grabham, now deceased, then Executive Secretary of the Indiana Supreme Court Disciplinary Commission. The proceedings were filed and prosecuted under the procedures adopted by the Indiana Supreme Court on June 23, 1971. (A & D Rule 23 is set forth, verbatim, in the Appendix at pages A120 through A133.) After a 31-day trial and on

November 9, 1976, the Hearing Officer, Judge Bruce W. Douglas of the Porter Superior Court, Valparaiso, Indiana, found in appellant's favor on each and every count, twenty (20) in number, set forth in the Amended Verified Complaint for Disciplinary Action. *n.2 (The Findings of Fact, Conclusions of Law, and Recommendations of the Hearing Officer appear at pages A85 through A89 of the Appendix.) More than two years later and on November 29, 1978, a 27-page Disciplinary Action, purporting to permanently disbar appellant, was filed Per Curiam, in the office of the Clerk

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*n2: . . . . the hearing officer shall determine whether misconduct has been proven by a preponderance of the evidence and shall submit to the Supreme Court written findings of fact deduced by him from the evidence. The hearing officer may submit recommendations concerning the dispositon of the case with his findings of fact (A & D Rule 14 [d], App. A117)

of the Indiana Supreme Court.

In the Matter of Owen W. Crumpacker, Original Action Cause No. 974 S 187, 269 Ind.610, 383 N.E.2d 36(1978) cert. denied. 100 S.Ct. 481; 444 U.S. 979; 62L.Ed2d. 406. The Disciplinary Action was filed without notice and/or hearing. The 4,700 page transcript and the thousands of pages of exhibits, constituting the record before the Hearing Officer and filed in support of his findings were never transmitted to the Indiana Supreme Court by the Clerk, nor were they examined by the Indiana Supreme Court or any member thereof. There was no hearing "de novo" or of any kind. (See In the Matter of John Ruffalo, jr. (1968)390 U.S. 544, 549; 88 S.Ct. 1222 (1968)

(4) On November 16, 1980, Cecil Melvin, Disciplinary Commission investigator, who had been instrumental in procuring the charges filed in the Indiana Supreme Court on September 17, 1974, launched a secret investigation or inquiry in Hammond, Indiana, with reference to appellant's activities since his release from the Wesley Memorial Hospital in Chicago on January 12, 1979. (Appellant was in the LaPorte Hospital at LaPorte, Indiana, suffering from a cardiac infarction and stroke on November 29, 1978, when the Disciplinary Action was filed in the clerk's office in Indianapolis.)

(5) The same attorneys who had participated in the secret investigation during the Summer of 1974 assisted Cecil Melvin in procuring affidavits which were attached to and made a part of a

twenty-six (26) count Verified Information for Contempt and Petition for Order to Show Cause, which was filed in the Indiana Supreme Court over the signature of Sheldon A. Breskow, Executive Secretary of the Indiana Supreme Court Disciplinary Commission on January 23, 1981. Appellant's lawyer, John Lyons, who represnted appellant before the Hearing Officer in 1975, withdrew his appearance, with leave of court, on June 22, 1981, and appellant, over objection, was compelled to defend without counsel. Evidence was heard in adversary proceedings on June 29 and July 9, 16, and 21, 1981. On January 27, 1982, the Indiana Supreme Court adopted a 10 page Per Curiam decision, finding appellant guilty of both direct and indirect criminal contempt on all

counts and sentencing him to serve 90-days in the Department of Correction without benefit of the good time statutes. The ten-page decision entitled "Contempt Proceeding," was published on February 11, 1982. In The Matter of Owen W. Crumpacker, Cause No. 974 S 187; ___Ind.___; 431 N.E.2d 91(1982), appeal dismissed for want of substantial federal question on October 4, 1982, S.Ct. No. 82-4046 101 S.Ct. 25. The findings, judgment, and sentence were adopted in appellant's absence and without his being afforded an opportunity to argue the case prior to the decision in accordance with the principles laid down in Herring v. New York (1977) 95 S.Ct. 2550, 422 U.S. 852. Appellant had filed a timely written motion for oral argument.

(5) Appellant served and filed a

written motion to vacate and set aside the decision of Janury 27, 1982 (which he had not seen). It was denied without a hearing on February 5, 1982. (See App., A101) Appellant appeared in Indianapolis for sentencing on February 11, 1982, unaware that he had been previously convicted and sentenced in absentia. He appeared in response to notice received in the mail. On arrival at Indianapolis, he was served with an order of commitment and transported by the Sheriff of the Supreme Court and the Indiana State Police to the Department of Correction at Putnamville, Indiana, where he was issued prison garb, processed, and served the full 90-day prison term. Oral and written motions to be released on bail pending an appeal to the United States Supreme Court were

denied as was the motion for delay in the execution of the order of commitment. Necessarily, appellant did not have access to his papers and files which were locked up in his offices in Hammond approximately 200 miles away. Under prison rules, he was held virtually incommunicado. Costs of the prosecution in the amount of $11,399.03 were taxed against him by an ex-parte order signed by Chief Justice Richard M. Givan on July 18, 1982.

(6) Shortly after appellant's incarceration, the prison doctor recommended release of appellant for reasons of health and for treatment by his personal physician in Hammond. The superintendant of the prison instituted procedures for returning appellant to Hammond under a work-release program. In a letter under date of March 4, 1982,

to Paul Jenner, Prison Administrator, Indiana Supreme Court Chief Justice Richard M. Givan prevented appellant's release. (*n.3)

(7) On May 11, 1982, Appellant was released from the Department of Correction and returned to Hammond. Several weeks were required to locate papers and files and to reopen his

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*n.3: "You will note I.C. 35-50-6-1 specifically refers to "a person imprisoned for a felony . . ." is subject to the good time law and I.C. 35-50-6-2 states "a person imprisoned for a misdemeanor . . .". is subject ot the good time. Mr. Crumpacker has been convicted of neither a felony nor a misdemeanor but has been found guilty of contempt of court. Thus, he does not come under the good time statute on the pardon provision of the Indiana Supreme Constitution.

He is therefore to be incarcerated for the full ninety days stated in the commitment unless otherwise orderd bvy this court." Sincerely yours, Richard M. Givan, Chief Justice of Indiana" (See Appendix, pp. A107 and A108.

office at 6255 Hohman Avenue, Hammond, Indiana. The appeals in Federal Civil Rights actions and a case filed on February 8, 1982, under the Federal Civil Rights Act and Organized Crime Control Act, Owen W. Crumpacker vs. Donald H. Hunter, et al, U.S.D.C., N.D. Ind., Cause #H82-0337, were dismissed because of appellant's inability to have access to his case files and meet briefing schedules. Appellant's primary efforts prior to July 12th, 1982, was devoted to the preparation of his jurisdictional statement in his appeal from the findings and judgment of February 11, 1982.

(8) Appellant and his wife, Mary Eleanor N. Crumpacker, left on a vacation trip to Oregon on Saturday, June 18, 1983. Shortly after their departure and during their absence, Cecil Melvin, and another employee of the Disciplinary

Commission, conducted a secret investigation and/or inquiry into Appellant's activities. Under representation that they were emissaries of the Supreme Court of Indiana, they contacted residents of Hammond: James Siple, Jr., Mrs. Evelyn Siple, James Siple, Raymond A. Nieto, Marilyn H. Kortenhoven (a lawyer), Timothy Klein, Louis Barney; Carmen A. Fernandez (an attorney), Glen A Kupiers, and others unknown in East Chicago; Judge Nicholas Schiralli of Hobart; and various court clerks at Crown Point and adjacent counties who had received letters from Appellant requesting copies of documents, etc. These individuals were induced to sign affidavits as to the truth of allegations in a 10-page Verified Information for Contempt and

Order to Show Cause prepared by Sheldon A. Breskow, as Executive Secretary of the Disciplinary Commission. Several of the affidavits were sworn to on/or about July 12, 13, or 14, 1983 and others were sworn to on July 22nd, after appellant's return from a vacation in Oregon. Neither Sheldon A. Breskow, nor Cecil Melvin, were/or are authorized by law to conduct an investigation, procure affidavits, and prosecute alleged violations of the criminal laws. Sheldon A. Breskow and Cecil Melvin were at all times fully aware of the void character of the 27 page disciplinary action filed with the clerk of the Indiana Supreme Court without notice and/or hearing on November 29, 1978. Breskow and Melvin were fully aware of the fact that the prosecuting attorney of Lake County had (and has) sole and exclusive

jurisidiction to prosecute individuals in Lake County who might be guilty of practicing law without being admitted to the bar. None of the persons that were interviewed by Breskow or Melvin had made any complaints with reference to alleged violations of law and none of the persons interviewed were provided with copies of the 27-page Disciplinary Action which, according to the Breskow complaint, had been willfully and intentionally violated.

(9) On August 15, 1983, a Rule to Show Cause was issued over the signature of Chief Justice Richard M. Givan, returnable at Indianapolis in the chambers of the Indiana Supreme Court on October 4, 1983. Appellant was personally served with a copy of the Rule to Show Cause, together with a copy of the Verified Information for Contempt

and Petition for Order to Show Cause by a member of the state police from the Lowell barracks. Upon being served, appellant promptly prepared, served and filed a Verified Motion to Quash the Rule and Dismiss the Verified Petition for lack of jurisdiction in the Indiana Supreme Court over the person of appellant and the subject matter of the proceedings. Because of the rulings made by the Indiana Supreme Court during the hearings at Indianapolis, in June and July of 1981, appellant instituted habeas corpus proceedings in the United District Court for the Northern District of Indiana under Cause #Misc. 581. The Sheriff of the Supreme Court (Lombardo), Superintendent of the State Police, and Sheriff of Lake County were served with copies of the verified petition as were the individual members of the Indiana

Supreme Court who, on or about August 25, 1983, had unlawfully taken appellant in custody (constructive) through the issuance and service of the Rule To Show Cause. In addition, Appellant prepared and filed in the United States District Court under Cause #Misc. 588, a Federal Civil Rights Act Complaint predicated upon the provisions of 42 U.S.C. 1983; 42 U.S.C. 1985; 42 U.S.C. 1988. Chief Justice Givan, who had issued a rule to show cause on August 15, 1983, was served with notice and a Verified Application for a Temporary Restraining Order returnable November 7, 1983, or as soon thereafter as the appellant could be heard. Summonses were issued by the clerk and service made upon the defendants on Friday, October 28, 1983. Notwithstanding the fact that appellant's

motion to Quash the Rule To Show Cause and Dismiss the Verified Information for Contempt and Petition for Order To Show Cause had not been either heard, or ruled upon, an order setting the case for hearing at Indianapolis in November 15, 1983, at 10:30 a.m. was issued over the signature of Chief Justice Richard M. Givan on November 8th. Efforts to serve appellant in his office in Hammond on November 9th, 1983, were made by Captain Daryl Longfellow of the Lake County Police Department and Detective Pat King of the State Police. The summons and/or notice was issued at the instance of Sheldon A. Breskow, who was (and is) named as a party defendant in the habeas corpus and civil rights cases.

B

Stage in the Proceedings at Which The Questions were Raised And The Way In Which They Were Passed Upon By The Indiana Supreme Court

(1) Appellant filed a Verified Motion for Relief From and Reconsideration of the Disciplinary Action, either filed or permitted to be filed on November 29, 1978 for lack of notice and/or hearing (due process) on February 10, 1979. The motion was denied on April 12, 1979.

(2) Appellant's petition for a writ of certiorari seeking a review of the 27 page Disciplinary Action for want of due process and double jeopardy was filed in this court on September 9, 1979. It was denied on December 3, 1979. (444 U.S. 979, 100 S.Ct 481)

(3) On February 27, 1981, appellant filed his Motion to Quash the

Show Cause Order and dismiss the Verified Information, etc., filed on January 23, 1981, because, among other grounds, of the void character of the Disciplinary Action sought to be enforced in criminal contempt proceedings. An amended and supplemental Motion to Strike and Dismiss was filed on June 24, 1981. The questions were again presented to the Supreme Court of Indiana in appellant's 1st and 2nd paragraphs of return (June 30, 1981), 3rd paragraph of return (July 1, 1981), 4th paragraph of return (July 1, 1981), 5th paragraph of return (July 9, 1981), Motion to Vacate and Set Aside a "Per Curiam" Disciplinary Action filed in the Office of the Clerk on November 29, 1978, etc. (July 2, 1981). All of the motions were over-ruled and denied

from the bench (see transcipts of the hearings held on June 29, July 9, 16, 21st). The rulings were supplemented in the 10 page decision adopted internally on January 27, 1982 and filed of record on February 11th, 1982 and published officially in In the Matter of Owen W. Crumpacker, original cause #974 S 187, ___Ind.___; 481 N.E.2d 91(1982). Appeal dismissed for want of a substantial question. S.ct. No. 82-5046." (#n.4)

(4) Appellant was served with a Rule to Show Cause returnable October 4, 1983. The rule was issued over the signature of Chief Justice Richard M.

#n.4 -- "In the Motion to Dismiss or affirm the Disciplinary Commission argued that, under Indiana law, a finding of contempt is not a criminal conviction citing State v. Shumaker, 200 Ind. 716, 161 N.E. 408 (1923). The Indiana Attorney General argued exactly the opposite in defeating Judge William Bontragger's appeal from a criminal contempt conviction, Palmer vs. State (1981 ___Ind.___, 415 N.E. 2nd 709.

Givan on August 15, 1983. It was personally served upon appellant in his offices in Hammond on August 25, 1983. Appellant prepared, served, and filed a Verified Motion to Quash the Rule to Show Cause and to Dismiss the Second Verified Petition for Contempt and Petition for Order to Show Cause for lack of jurisdiction over the person of the appellant and subject matter of the proceedings. The motion was denied without a hearing after November 15, 1983, and after the Judge Givan had issued a bench warrant for appellant's arrest.

VIII

THE QUESTIONS ARE SUBSTANTIAL

A

The Conduct of the State Supreme Court in Organizing Itself Into a Trial Court for the Purpose of Instituting, Prosecuting, and Convicting Citizens of Crimes is a Matter of Great Concern to All of the Citizens of Indiana.

It will be observed that the Indiana Supreme Court is without constitutional or statutory authority to institute, prosecute, try and convict citizens of crimes.

Contrary to the opinion of Chief Justice Richard M. Givan in his letter of March 4, 1982 to Paul Jenner, Prison Adminstrator, (n. #3, p. 29, supra) and the opinions expressed by Sheldon A. Breskow in his Motion to Dismiss or Affirm, filed in Cause S.Ct #82-5046, criminal contempt, either direct or indirect, is a crime.

We quote from the opinion of Mr. Justice White in the case of Bloom v. Illinois, 391 US 194, 20 L Ed 2d 522, 88 S Ct 1477, (1968) at page 528 of the Lawyer's Edition:

> "(4) Criminal contempt is a crime in the ordinary sense; it is a violation of the law, a public wrong which is punishable by fine or imprisonment or both. In the words of Mr. Justice Holmes: "These contempts are infractions of the law, visited with punishment as such. If such acts are not criminal, we are in error as to the most fundamental characteristic of crimes as that word has been understood in English speech." Gompers v. United States, 223 US 604, 610, 58 L Ed 2d 1115, 1120, 34 S Ct 693 (1914).

As stated further in Bloom v. Illinois, supra, at page 529, of the Lawyer's edition:

> "(5) The court has long recognized the potential for abuse in exercising the summary power to imprison for contempt -- it is an "arbitrary" power which is "liable to abuse." Ex parte Terry, 128 US 289, 313, 32 L Ed 405, 412, 9 S Ct 77 (1888). "[I]ts exercise is a delicate one and care is needed to avoid arbitrary or oppressive

conclusions." Cook v. United States, 267 US 517, 539, 69 L Ed 767, 775, 45 S Ct 390 (1925).

Again, as stated at page 532:

> "Our experience teaches that convictions for criminal contempt not infrequently resulting in extremely serious penalities, (see United States v. Barnett, 376 US 681, 751, (Goldberg, J., dissenting), 12 L Ed 2d 23, 64, 84 S Ct 984, are indistinguishable from those obtained under ordinary criminal laws. If the right to jury trial is a fundamental matter in other criminal cases, which we think it is, it must also be extended to criminal contempt cases."

In 1970, the Indiana Constitution was amended by removing all original jurisidiction from the Supreme Court except in limited fields including "discipline or disbarment of those admitted to practice law." ART 7, Section 7, Judicial -- Jurisdiction of Supreme Court. (Page 13 supra) The legislature implemented the constitution by authorizing the Supreme Court to adopt rules of procedure within the scope

of its exclusive jurisdiction. The Supreme Court of Indiana adopted Admission and Disciplinary Rules 23, 24, and 25 pursuant to constitutional and statutory authority. The rules became effective on June 23, 1971. (A & D Rule 23 is set forth at pp. A-113 through A-119 of the Appendix.) A & D Rules 24 and 25 refer to actions to restrain the unauthorized practice of law and disciplining of judges.

An examination of A & D Rule 23 discloses that the Indiana Supreme Court Disciplinary Commission is wholly without authority to conduct a secret investigation, interview witnesses, and procure affidavits for the purpose of filing and prosecuting indirect criminal contempt proceedings for alleged violations of the criminal laws. The Constitution of Indiana, Article VII,

§ 18, Criminal Prosecutions, provides: "all criminal prosecutions shall be carried on in the same and by the authority of the State; and the style of all process shall be" 'the State of Indiana.'" (see page 13 supra)

In State v. Youngblood (1947) ___ Ind.___; 83 N.E. 2d 174, 180, the court held that"[a] criminal contempt must be filed by the state and prosecuted by the prosecuting attorney."

The legislature has defined "Crimes" as meaning a felony or a misdemeanor. Misdemeanors, felonies, and infractions are defined by the legislature. Burns Indiana Statutes, Code Edition, Vol. 33, §33-1-13-1. (see pages 14 and 15, supra.)

In Indiana as well as elsewhere, the power and authority to define crimes and provide for the authority and means for their prosecution is vested in the

legislative branch of the government under the doctrine of separation of powers. The Indiana legislature has, properly, defined the practice of law without a license as a Class B misdemeanor putting the burden of proof upon the defendant to prove his admission as an attorney at law by the Supreme Court of Indiana. (See Burns' Indiana Statutes, Code Edition, Vol. 33, §§33-1-5-1 and 33-1-5-3, pp. 13 and 14, supra.)

The legislature has, likewise, defined criminal contempt as constituting, among other things, the willful violation of a valid court order. The procedure for prosecuting acts of contempt is clearly outlined by statute as is the penalty. (See Indiana Statutes, pages 15 and 16 supra)

The Supreme Court of Indiana, in the

case of State ex rel. Indianapolis Bar Association v. Fletcher Trust Company, (1936), 211 Ind. 27; 5 NE2d 538, determined that anyone charged with practicing law without a license has a right to be tried in the county of his residence and that the criminal procedures established by the legislature are exclusive. The Amendments to the Constitution of Indiana did not change the law. In State ex rel. Black v. Burch, 80 NE2d 294; 226 Ind. 445, 457, the court stated:

> "The powers of government are divided into three separate departments; the Legislative, the Executive including the Administrative, and the Judicial; and no person charged with official duties under one of these departments shall exercise any of the functions of another except as in the Constitution expressly provided."

It has been uniformly held by Federal and State courts that, as a

matter of constitutional law, any powers exercised by the courts beyond their constitutional and legislative authority are coram non judice and void.

By what right does the Supreme Court, its agents, and employees have to ignore the procedures established by the legislature governing the investigation into matters of violation of criminal laws and the responsibility of the prosecuting attorney to file and prosecute information and indictments. (see Burns Vol. 34, 34-4-7-8 and Vol. 35, sections 35-14-1-2 and 35-33-8-4, pages 16 and 17, supra.)

B

The Procedures Adopted by the Indiana Supreme Court in Arresting a Citizen on his Private Premises, Under a Bench Warrant Issued By the Chief Justice of the State Four Months Previously, Taking Him to the State Capitol 180 Miles Away, Trying and Convicting Him Without Evidence, Without Affording Him the Opportunity to Prepare a Defense, and Without Charges Having Been Filed Presents a Substantial Question.

The central concern of the IV Amendment is to protect liberty and privacy from arbitrary and oppressive interferences by government officials. Comara v. Municipal Court, 387 US 523, 534- 535 18 L.Ed 2d 930; 939; 87 S.Ct. 1727 (1967). This Court has held that judges are not above the law regardless of the common law doctrine of immunity. In Supreme court of Virginia, et al., v. Consumers Union of the United States, et al., 466 US 719, 64 LEd 2d 641, 100 S Ct 1967 (1980) the Court held that the individual members of the Supreme Court

of Virginia were subject to injunctive and declaratory orders in a suit under 42 USCS § 1983. In the recent case of Pulliam, Magistrate for the County of Culpeper, Virginia v. Allen et al., 104 S.Ct. 1970; 80 L.Ed.2d 565; 52 U.S.L. W. 4525, the Court has recognized the right of individual citizens to challenge the constitutionality of practices resulting in their imprisonment in violation of their constitutional rights. The rule of comity between the highest court in Indiana and the United States Supreme Court should not be construed to permit a practice of summary judgment and punishment without charges having been filed and without affording the accused the protection afforded under the V, VI, and XIV Amendments to the Constitution.

As soon as practicable, after

having been served with a Rule to Show Cause on August 25, 1983, and because of his experiences in 1981 and 1982, appellant instituted Habeas Corpus proceedings under 28 USC 2254 in the United States District Court for the Northern District of Indiana, Hammond Division. Owen W. Crumpacker v. Paul Lombardo, both individually and as Sheriff of the Indiana Supreme Court, et al., Misc. Cause No. 581. The members of the Indiana Surpeme Court were named as defendants and were served with notice and a verified application for injunctive relief. When the Indiana Supreme Court refused to either rule upon or grant a hearing on appellant's Motion to Quash the Rule to Show Cause and Dismiss the Verified Information, etc., appellant filed an action in the U.S. District Court, Hammond Division under the Federal Civil Rights Act and

the civil action provision of the Organized Crime Control Act. (See page 10 supra)
Owen W. Crumpacker v. Donald H. Hunter, et al., USDC, Hammond, Civil No. Misc. 588. Summonses were issued on October 28, 1983, and Chief Justice Richard M. Givan, who had issued the Rule to Show Cause and had signed the commitment order on February 11, 1982, was served with notice and application for a temporary restraining order returnable November 7, 1983, or as soon thereafter as the appellant, Owen Crumpacker, could be heard. The Lake County Sheriff was named as a defendant and served with the process prior to November 9, 1983, when Deputy Sheriff Daryl Longfellow and a detective from the State Police Post at Lowell, Indiana, made an effort to serve a notice and or order to appear at a hearing rescheduled for November 15, 1983.

Appellant is entitled to protection and relief under the precedents of this Court. Mitchum v. Foster, 407 US 225, 240; 92 S.Ct. 2151, 2161, 32 L.Ed.2d 705 (1972); Ex parte Virginia, 100 US 339, 25 L.Ed. 676 (1979); and Pulliam, Magistrate for the county of Culpeper, Virginia v. Allen, et al., supra.

C

The Unprecedented Conduct of the Supreme Court of Indiana in Prosecuting Appellant Demands an Investigation into the Void Character of the 27-Page Disciplinary Action Filed on November 29, 1978, Without Notice and/or Hearing And in Violation of the Procedural Due Process Clauses of the United States and Indiana Constitutions.

The Indiana Supreme Court, acting wholly without jurisdiction, has undertaken to "validate" a void Disciplinary Action by prosecuting appellant for indirect criminal contempt. In this manner, and on at least two occasions, the Indiana Supreme Court has attempted to make a judicial determination that the void order, somehow, has become valid. Appellant is jailed to force an admission of the validity of a void order.

It will be observed that Saul I, Ruman's Petition for Review was never granted. Neither Saul I. Ruman nor the

Indiana Supreme Court Disciplinary Commission, through Sheldon A. Breskow, made any effort to comply with the procedures set forth in A & D Rule 23. In no recorded case has the Indiana Sureme Court (or any Supreme Court) undertaken to completely ignore the findings of the Hearing Officer, the record, and the necessity for notice and hearing.

It is apparent on the face of the record that gross injustice has been perpetrated on appellant. Much more than the tragedy that has been inflicted upon appellant and his family is involved in this appeal:

> "Where a person's good name, reputation, honor, or integrity is at stake because of what the government is doing to him, notice and an opportunity to be heard are essential." Wisconsin v. Constantineau, 400 US 433, 27 L.Ed. 2d 515, 91 S.Ct. 507 (1971).

* * * * * * *

"The right to be heard before being condemned to suffer grievous loss of any kind, even though it may not involve the stigma and hardship of a criminal conviction, is a principle basic in our society." Anti-Fascist Committee v. McGrath, 341 US 123, 168; 95 L.Ed. 2d 817; 71 S.Ct. 624.

* * * * * * *

"We have repeatedly ruled that the procedural guarantees of the Fourteenth Amendment apply whenever the state seeks to remove or significantly alter that protected status." Paul v. Edward Charles Davis III, 424 US 683, 711; 47 L.Ed. 2d 405; 96 S. Ct. 1155, 1165.

D

The Maintenance of the Integrity of the Supreme Court of Indiana, the United States District Court for the Northern District of Indiana, and the United States Court of Appeals for the Seventh Circuit as Important Public Institutions Presents Substantial Questions For Invoking the Jurisdiction of the United States Supreme Court.

Since the adoption of the amendments to the Indiana Constitution in 1970, the Indiana Supreme Court has been exercising

unprecedented powers over the legal profession in Indiana as well as the nisi prius judges, all of whom are subject to discipline and removal by the Indiana Supreme Court. The Judicial Qualifications Commission, chaired by the Chief Justice of Indiana, screens and nominates replacements on the Court of Appeals and Indiana Supreme Court. One man, Breskow, under A & D Rule 23, determines what grievances will be processed beyond the administrative level and which grievances will be determined to be insubstantial.

It is significant that both Breskow and the Indiana Supreme Court expouse the concept that contempt of court is not a criminal offense within the meaning of the Constitution of Indiana, the statutory enactments, and the decisions of the United States Supreme Court.

They base their opinions on the Supreme Court decision of State v. Shumaker (1928), 200 Ind. 623; 164 NE 408. This decision, a controversial one, was a political decision growing out of the prohibition era and the activities of the Anti-Saloon League. The majority of the court was dominated by the influence of the Ku Klux Klan which controlled the Governor's office and the Statehouse.

The dissenting opinion in State v. Shumaker speaks out most eloquently on the need for noting jurisidiction in this case:

> "The power of the judiciary rests upon the faith of the people in its integrity and intelligence. Take away this faith, and the moral influence of the courts is gone and the respect for law is destroyed. Other departments of the government may outlive unjust criticism and may still render service to its people, even when unfairly assailed, but when confidence in the courts is gone, respect for the

law itself will speedily disappear, and society will become the prey of fraud, violence, and crime." (200 Ind. 623 at page 643)

CONCLUSION

For these reasons, this Court should note probable jurisdiction of this appeal.

Respectfully submitted,

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84-337

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CLERK

No.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

IN THE MATTER OF OWEN W. CRUMPACKER

OWEN W. CRUMPACKER, *Appellant,*

v.

INDIANA SUPREME COURT DISCIPLINARY COMMISSION, *Appellee*

On Appeal From a Judgment Entered By The Indiana Supreme Court in an Original Action in Said Court Convicting Appellant of Indirect Criminal Contempt and Sentencing Him to Serve a Prison Term in the Department of Correction.

APPELLANT'S APPENDIX IN SUPPORT OF JURISDICTIONAL STATEMENT UNDER RULE 15(j)

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APPENDIX

Before the Supreme Court of Indiana:
Transcript of Trial of Contempt Proceedings held on April 4, 1984, in Room 317, Supreme Court of Indiana Chambers, State House, Indianapolis, Marion County, Indiana, incluidng findings and sentence A1-A49

Supreme Court of Indiana Order of October 31, 1983, Resetting Show Cause Hearing for November 15, 1983 ..... A50

Supreme Court of Indiana:
Excerpts From Transcript of Proceedings held on November 15, 1983 in the Supreme Court Chambers, State House, Indianapolis ... A53-A57

Order for Arrest of Appellant entered on November 16, 1983 ..... A58-A60

Arrest Warrant Issued over the Signature of Chief Justice Richard M. Givan on November 16, 1983 ..... A61-A62

Order Finding contempt entered on April 4, 1984 ..... A63-A64

Order of Commitment, dated April 4, 1984 ..... A66-A70

Supreme Court of Indiana Order
Re-setting Show Cause
Hearing for March 21, 1984,
entered April 4, 1984 ..... A71-A72

Notice of Appeal Filed with
Clerk of Indiana Supreme
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and/or Fixing of Bail Pending
Determination of Defendant's
Appeal to the Supreme Court
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APPENDIX

IN THE
SUPREME COURT OF INDIANA

IN THE MATTER OF	)	
	)	CAUSE NO.
OWEN W. CRUMPACKER	)	974 S 187

TRANSCRIPT OF PROCEEDINGS

held on April 4, 1984, in Room 317, Supreme Court of Indiana Chambers, State House, Indianapolis, Marion County, Indiana.

Court Reporter: Jamie F. Martin, RPR

APPEARANCES:

FOR INDIANA SUPREME COURT DISCIPLINARY COMMISSION:

GREGORY M. FUDGE
and
WILLIAM G. HUSSMAN, JR.
Room 814 ISTA Building
Indianapolis, Indiana 46204

BEFORE:

Richard M. Givan, Chief Justice
Roger O. DeBruler, Justice
Dixon W. Prentice, Justice

4:28 O'clock P.M.
April 4, 1984

CHIEF JUSTICE GIVAN: The Court has before it this afternoon the matter of Owen W. Crumpacker, and it bears the Supreme Court Cause No. 974 S 187. Let the record show that in attendance are Mr. Greg Fudge and Mr. William Hussmann of the Disciplinary Commission and Mr. Owen Crumpacker.

We have a situation here, Mr. Crumpacker, we have been trying to resolve for some time. In order to review the matter before the Court, let me first inform you that you have been brought here in a matter of possible contempt of this Court for failure to appear for a hearing. I will advise you that the sequence of events leading to the matter was on the 15th day of August, 1983, this Court issued an order

to you to show cause why you should not be cited for contempt of Court. That particular situation arose out of the allegation of the Disciplinary Commission that you had been practicing law contrary to an order of this Court.

On the 4th day of October, 1983, we received from you a motion for a continuance in this matter, and on the same day we granted you that continuance. On the 4th day of October, 1983, that occurred.

On the 31st day of October, 1983, this matter was ordered reset on a matter to show cause why you should not be cited for contempt. On the 15th day of November, 1983, the date set for the rehearing, the Disciplinary Commission appeared and was ready for the hearing. However, the Court was notifed that you were not available, that you were not

present in the courtroom. This Court heard some testimony from the Disciplinary Commission concerning the attempts to give service upon you and notify you of the hearing that was to transpire on November 15th.

On November 16th, this Court issued an order for your arrest for failure to appear at that hearing. Also on the 16th day of November, 1983, an arrest warrant was issued. It is my understanding that you are now before this Court pursuant to service of that warrant on you by Detective Longfellow of the Lake County Sheriff's Department and that you are now in the custody of the Sheriff of this Court, the Indiana State Police, to appear before this Court.

The time has been great here, Mr. Crumpacker. There has been a lot of intervening time since you were ordered

to appear that you have, for some reason known only to yourself, failed and refused during that entire period of time to surrender yourself to the jurisdiction of this Court for possible action on the original citation started by the Disciplinary Commission to which I first referred. Do you have any explanation you would like to make to the Court for your failure to appear?

MR. CRUMPACKER: Yes.

CHIEF JUSTICE GIVAN: If you would like to approach the microphone there, we might be able to hear you a little better.

MR. CRUMPACKER: If the Court please, I wanted to make this point, that this afternoon, I would say around one o'clock -- I don't remember the exact time -- I was served for the first time with a document which Your Honor is

familiar with dated November 16th, 1983, which was an order for arrest, and attached to it is an arrest warrant. It is certified over the signature of Marjorie O'Laughlin. This is the first time that I have seen or been served with a copy of the warrant, and I respectfully suggest that I be given an opportunity to prepare and file a motion to quash the warrant that was served upon me for the first time.

I wanted to point out to the Court that I did write the Clerk and the Court some time ago for copies of the warrant, and I did not receive them. I wanted to point this out, that I think that sometime in December, if I am not mistaken, I was advised, that is, through my wife, that a stay of this warrant which I had never seen had been granted and that I was advised that if I would reside in Illinois and if my wife

would put up our house for sale and move to Kalamazoo, Michigan, that no efforts would be made by the Court to proceed further with reference to these proceedings.

Now, I was advised by, I think, the Sheriff, either directly or indirectly, that if I was in the state of Illinois that I couldn't pursue the remedies in the Federal Court in Hammond with which the Court is familiar. The Court, I think, is aware of the fact that a habeas corpus action was filed by me sometime in October. That is a USDC Miscellaneous 31. I believe another action the Court is familiar with, Cause No. 588, was filed, I think, on October 28th and copies of the papers served upon the Court -- now, at least it was my belief in good conscience that the litigation in the United States District

Court for the Northern District of Indiana, Hammond Division, gave that Court full and complete jurisdiction over the matters in controversy here. At least that was my honest and good faith belief, and it was in that vein and in that mind that I was undertaking to prosecute those cases in the United States District Court.

I wanted to point out to the Court that I was informed -- I wanted to point out to the Court that initially I was not served with any notice or order to appear in this Court on the 15th of November. There was no service of any kind made upon me, and I wanted to, as part and parcel of my appearance here today, move to quash the arrest warrant on the ground that there is statement to the effect that I was served on November 9th with a notice to appear. I can tell the Court that I was not served with

such a notice, that I had previously filed, as the Court is aware, a motion to dismiss challenging the jurisdiction of this Court. And I had learned that -- I had heard, that is, indirectly through my daughter, Amy, who had called the Court that there was to be a hearing on November 15th, and I filed a motion in good faith stating that I was without funds under oath to attend and that further that I was suffering from an eye disease of a serious nature that had been discovered when I was released from Putnamville for which I had been under treatment and that that ailment was had -- I lost, I think, practically all the sight of my eyes through what they call macular disintegration or something of that kind and that for those reasons that I, in addition to being without funds, that I move to quash any notice

or any hearing, if there was one. Those were all made in good faith.

Afterward, as I say, sometime in December, I was advised that the arrest warrant had been recalled and that I then undertook to, upon advice of the Sheriff, I guess, that I was advised that I could pursue my legal remedies in the Federal Court if I proceeded to reside in Illinois, and I did get ahold of the Sheriff's office in Cook County and the United States Attorney in Cook County and was advised that there was absolutely no possible way that I could be interfered with in my pursuit of these Federal Court remedies in the state of Illinois where I had access to a library in Chicago, things of that kind, and that if there was any desire on the part of anyone to prosecute the warrant, it would have to proceed by a governor's warrant at the capitol of the

state of Illinois.

I wanted the Court to know that on Monday I had an appointment with the Mayo Clinic, which is scheduled for tomorrow morning at eight o'clock, for the purpose of appearing up there to check into the new laser beam technique that has been announced in the papers on January 22nd. And when I was advised of the existence of this new technique, I made arrangements to -- I made an appointment at the Clinic and then undertook to get in touch with the doctors over at the Ingalls Hospital and to assemble these records for the prupose of going up to the clinic and undertaking to have my eyes examined and possible operations, that is, next week, in the Saint Mary's Hospital in Rochester, Minnesota.

I think that at noon my wife

came down from Kalamazoo, Michigan, on Monday for the purpose of organizing my physical equipment preparatory for this trip and advanced $196 for my round trip fare on Northwest Orient Airlines, which is to leave tonight at eight o'clock, and I went to my offices -- it was noon -- to pick up the medical information to take with me to the Mayo Clinic. And at that time this Darryl Longfellow met me as I was leaving my office and brought me down here.

CHIEF JUSTICE GIVAN: Now, anytime during this period of time that you have recited, did you make any formal notice to this Court or formal inquiry concerning the status of this warrant that you knew to be outstanding against you?

MR. CRUMPACKER: Yes, I did, if the Court please.

CHIEF JUSTICE GIVAN: Who did

you contact?

MR. CRUMPACKER: I wrote the Court, wrote the Judges and wrote the Clerk, and then I also make inquiry of the Sheriff's Office. I made inquiry of the County Attorney who appeared of record for the Sheriff of Lake County, and that is with reference to the existence or nonexistence of this warrant. I was under the impression and believed in good faith that it had been recalled --

CHIEF JUSTICE GIVAN: Whom did you rely upon for such information that it had been recalled? You received no written information from this Court that it had been recalled.

MR. CRUMPACKER: No, I didn't. I wrote the Court, as I say. I wrote the Court and asked for -- I had never seen the warrant. Anything I knew about

it was hearsay, so that, as far as I was concerned, I was not aware of any of its contents until I was given a copy this afternoon on my way down here, and I represent to the Court that I had checked, to the best of my ability, with the Sheriff's Office in Crown Point, with the Clerk's Office to find out whether or not there was any warrant outstanding. And through none of these sources was I able to ascertain that such a warrant was, in effect, outstanding.

CHIEF JUSTICE GIVAN: Mr. Crumpacker, let me inform you, when I received your request for a copy of the warrant, our Clerk was advised to forward to you a copy of the warrant, which she did on that date with a return receipt requested. It was mailed, and it was returned to us refused by you.

MR. CRUMPACKER: It was not --

let me make this point: To the best of my knowledge, may it please the Court, I never received a copy of it. It was not refused by me. There was no way that I could have refused it. I was unaware of that until today. This is the first time I have heard of it, if it please the Court.

CHIEF JUSTICE GIVAN: Mr. Crumpacker, if you requested a copy be sent to you, wouldn't you be expecting it to come?

MR. CRUMPACKER: That would all depend -- I could only tell you what the facts were, that there was no way that I could receive that document, no way whatsoever because at least I was in Illinois, and I don't know where it was addressed to, but I can represent to the Court that I had never received a copy of this document until today --

CHIEF JUSTICE GIVAN: I don't know that that's at all necessary that you receive a copy, but we tried to comply with your request, and if you now tell us you don't know how you could have received it, I don't know why you made the request.

MR. CRUMPACKER: I was anxious to get a copy of it to see what the document was, and that's the reason I wrote. And I can only represent to the Court that I at no time refused it. At no time was there ever any copy delivered to me, and today is the first time that I have been advised that such a document had been sent.

CHIEF JUSTICE GIVAN: I think that's really beside the point. I think what we are here for today is to determine whether or not you had been notified and knew of the proposed hearing to be held November the 15th,

1983, in this courtroom where you failed to appear.

MR. CRUMPACKER: I only say this, if the Court please, that in that respect I answered the Court to the best of my ability, and that is according to the arrest warrant, there is a statement made that I was served on November 9th. I was never served with any notice, and I was and am of the opinion that there was no compulsory duty upon my part to appear before this Court on the --

CHIEF JUSTICE GIVAN: Now, I am looking at the sworn testimony of Darryl Longfellow, who represents himself to be a detective of the Lake County Sheriff's Department. He testified here on the 15th of November that he had gone to your office on the 9th of November; that he knew you personally; that he stood on one side of

a glass door where he could see through the glass of the door, and he could see you in your room in the office with your secretary, a woman named Pam; and that he saw you sitting there eating a sandwich, and she was eating a sandwich; that he knocked and tried to get you to come to the door. You would not converse or come to the door, but Pam did converse with him, notified him that you would not receive the papers. He notified her in your hearing what he had, the papers for you to appear at the hearing on the 15th, and that Pam relayed the message from you to him in his presence, in his sight, that you would not accept the papers. I believe he testified that he pushed the papers under the door, nevertheless, and that he left the premises then. Do you recall that episode when you could see him through the door?

MR. CRUMPACKER: No, I do not. The only thing that I can tell you, at least from my standpoint, I was unaware of the presence of Captain Longfellow or Darryl Longfellow. I do not know of any conversations that he may have had with Pam. I do know that there was a -- and I'm trying to think back, but I do know that there was a colored lady that was there that came to the door, and there were two other people, as I was advised, from South Bend, Indiana, that came over. I was told that there were four people that had come to my office that day.

CHIEF JUSTICE GIVAN: Did you see the colored lady yourself?

MR. CRUMPACKER: I did not see her. I was told that she was there, but I did not see her at all.

CHIEF JUSTICE GIVAN: You

didn't see the detective, that is, Detective Longfellow, through the glass door?

MR. CRUMPACKER: No, I did not. I did not see Captain or Darryl Longfellow. I did not know that he was there, and as far as I was concerned, the only information that I have with reference to anybody being at or near my office was information that I received over the telephone at a restaurant, at the Embers Restaurant, when I was told that there had been four people at or near my office that day and that they were advised that I was not there.

CHIEF JUSTICE GIVAN: Now, Mr. Crumpacker, you had been notified and received notice, had knowledge to notice of the first setting of this case.

MR. CRUMPACKER: That's true.

CHIEF JUSTICE GIVAN: And you filed a continuance.

MR. CRUMPACKER: That's true.

CHIEF JUSTICE GIVAN: And that continuance was granted.

MR. CRUMPACKER: Yes, that's true.

CHIEF JUSTICE GIVAN: Now, when they atempted to give you notification of the second setting, did you not anticipate, that your continuance having been granted, that the matter would be set at some time?

MR. CRUMPACKER: I did not, Your Honor, and as I mentioned to the Court, the reason for it was that after the first notice, I filed motions to quash and a request for argument with regard to the jurisdiction of the Court. That was not ruled upon, to the best of my knowledge, until the 21st of November.

I addition to that, I

instituted, as I mentioned to the Court, on October 28th a proceeding in the United States District Court, had notices served upon the Court that I was going to be seeking a hearing on November 9th in the Federal Court in Hammond, and I was under the impression that complete jurisidction over the subject matter was vested in the Federal Court in Hammond. And for that reason, it was my belief that it was -- my remedy was in that Court and that I was hopeful, and I think notices were served upon Your Honor.

I know that I received return receipt notices to the effect that I will appear in the Federal Court on November 7th or as soon thereafter as I could be heard seeking a temporary or an injunction against the prosecution of these proceedings so that, at least, it was my candid belief that the Court,

that is, the United States District Court in Hammond, had full and complete and exclusive jurisdiction over the subject matter of these proceedings.

CHIEF JUSTICE GIVAN: I gather you kept track of that proceeding in the Hammond District Court, did you not?

MR. CRUMPACKER: What, did I --

CHIEF JUSTICE GIVAN: You had filed a petition, and you kept track of your petition and the progress thereof in that Court, didn't you?

MR. CRUMPACKER: No, I did not. The truth of the matter is -- if the Court please, the truth of the matter is, I was, during most of the month of December, I was ill, and I was in New Jersey in the latter part of the month. And there was absolutely no way that I could or did keep in touch with the case in the Federal Court.

CHIEF JUSTICE GIVAN: You were not aware they denied your petition for restraining order?

MR. CRUMPACKER: No, I have never seen it. I don't believe it's ever been acted upon. My belief is, it's never been ruled upon.

CHIEF JUSTICE GIVAN: Have you made inquiry of that Court of the status of your case?

MR. CRUMPACKER: If the Court please, I have undertaken, to the best of my ability -- or incidentally, I think that I have undertaken to write letters and to obtain copies of documents, and I have obtained, at least of recent date, to the best of my ability, copies of the records in that case.

I can only tell you that it has been difficult, almost impossible, for me to -- with the condition of my

eyes, the condition of my health, the lack of clerical assistance, the lack of funds, to keep track of the proceedings in the United States District Court. I do believe that I intend to and hope that those cases will be resolved. And I can only say that those cases were prosecuted in good faith, and it's my understanding -- I have not seen anything about it except in the newspapers, but I have understood that the Court, that a Judge in Chicago by the name of Posner entered a ruling of some kind in which, according to the newspaper, he had full jurisdiction over the parties in this subject matter, in this very business, and I believe -- there again, I have not seen any orders, but I believe, having read the newspaper articles that emanated here, that he had jurisidiction and had given me until the

15th of May to distinguish between the cases that were filed on November 28th, November 10th and November 15th under the Organized Crime Control Acts and other caes that had been earlier prosecuted.

Now, I say I have understood that the Court has entered orders, I say only from the newspaper, in which that has acquiesced in the jurisdiction of the Court. Now, if that's true -- and I have not seen the orders. If that is true, that does, it seems to me, confirm the very thing that I have been attempting to tell the Court. Least of all, I am just asking the Court that I be given an opportunity to prepare and file a motion to quash the arrest warrant because I have never seen it before and because on its face, at least, it's blatantly erroneous. And I believe, at least to the best of my

ability, that is the remedy that I would suggest that we be permitted to pursue.

I do think that as far as I am concerned, I was hopeful -- now, that is in good faith -- to be able to get to Rochester, Minnesota to make an appointment at eight o'clock in the morning with a further appointment with the eye doctors at the eye clinic on the 7th floor of the Mayo Building the day after tomorrow to proceed with the medical remedy that I, at least, sorely need. For that reason, I am suggesting that the Court discharge the warrant and permit me to attend to my medical problems. I will reduce the motion to quash in writing. I will file affidavits under oath with reference to any matters that appear in the warrant, and I don't believe that any useful purpose would be served by not

discharging the arrest warrant or at least releasing me from custody so that I can address myself to the document.

It is very hard for me to explain to the Court why or under what circumstances documents were not delivered to me. I can only represent to the Court that as far as I am concerned, I did not receive nor did I refuse any documents from this Court. I have been under the impression, for reasons I think have been stated, that a warrant had been stayed and that, apparently, it had been either withdrawn or abandoned, and every check -- I checked carefully with the Sheriff's Office, with the Clerk's Office in Hammond and was aware --

CHIEF JUSTICE GIVAN: How about with my office?

MR. CRUMPACKER: What?

CHIEF JUSTICE GIVAN: How

about my office? Did you call my office and find out?

MR. CRUMPACKER: Yes, I did, if the Court please.

CHIEF JUSTICE GIVAN: And what did you learn?

MR. CRUMPACKER: To the best of my ability, I did not receive any response as to whether there was or was not a warrant outstanding. I did not receive a response. I can only say that, which I am certain is true. Had I been aware of it or had I been furnished with a copy, I think I would have addressed myself to that warrant and --

CHIEF JUSTICE GIVAN: Let me say for the record, Mr. Crumpacker, that I never received any call from you. I received numerous calls from both your wife and your daughter, and at all times I have notified them that the warrant,

in fact, was outstanding, and it would be certain they asked me if the warrant could be withdrawn. They gave me several reasons, most of which you have covered, that they would like the warrant to be withdrawn, and I continuously advised them that the warrant had not been withdrawn, that if you were found in Indiana, you would be arrested. I presume they conveyed that information to you.

I will say for the record, I did not get to talk to you personally, and each incident of contact between me and members of your family was instituted by them, not by me.

MR. CRUMPACKER: May I respond to that, if the Court please?

CHIEF JUSTICE GIVAN: You may.

MR. CRUMPACKER: I can only tell the Court in conscience directly that not one of my daughters with whom

you may have been in contact with advised me at anytime that the warrant was outstanding, and, as a matter of fact, the most recent correspondence that I had on that subject was to the effect that they did not know whether it was or was not outstanding. My wife, who came from Kalamazoo, Michigan Monday afternoon and was unaware of the status of any arrest warrant. And if you had talked to her about it, I am satisfied that she would have told me because she was completely uninformed. She was led to believe, I believe, that if she moved to Kalamazoo and bought a condominium up there, which she did, and moved up there and that I was making arrangements for medical treatment that the warrant or whatever the proceedings were would be abandoned. I have written my daughters with reference to any specific

information about it, and I can only tell the Court that on no occasion did they or any one of them make any statement to me that the warrant was not outstanding.

Now why they wouldn't tell me that, I don't know. But I am only saying, at least as far as I am concerned, I was under the impression and believe that that warrant had been withdrawn and due to the circumsttances that I mentioned. I can only state what I know to be the facts, and as I say, the first time I have seen it, and I have attempted to get a copy of it, was today when I was delivered a copy in Hammond. And I read it on the way down here and would like to have the opportunity of being released to attend my medical problems, and I will prepare a motion under oath addressed to the item which I have in front of me.

CHIEF JUSTICE GIVAN: Mr. Crumpacker, in view of your past performance in this matter, how are we to believe if we would release you today to set about the business of preparing a motion to quash, how are we to believe that you will, in fact, file one or that you will ever respond to us again unless brought here by a law enforcement officer?

MR. CRUMPACKER: I can only advise Your Honor that I don't think that in the history of this state there has been anyone more prolific than I have been in this case in responding to pleadings, orders, things of that kind that have to do with my freedom and responsibilities in this case. I think -

CHIEF JUSTICE GIVAN: I would certainly have to agree with that, Mr. Crumpacker. That has been accomplished

in absentia, the way your papers have been in abundance, but your person has been in abundant absence.

MR. CRUMPACKER: Let me make this point, that when I came down here on February 11th, 1982, as the Court is aware, I asked for a stay to enable me to put my effects in order. I asked that I be released on bail. I asked for the right to prosecute an appeal. All of those matters were denied, and I was taken preemptorily to Putnamville for 90 days. And when I was taken to Putnamville for 90 days, necessarily I was unable, either mechanically or physically or any other way, to prosecute my cases by reason of any appeals. My office was closed, and it took me almost -- I can't answer the -- I know how to go through the travail, but as I say, the point that I am trying to get at is that at least I have taken

every step that I know of, to the best of my limits and my capcities, my physical condition, et cetera, to respond in complete good faith and to attempt to pursue the remedies which I believe are adequate. And I am talking about the remedies in the Federal Court and other remedies that I am asking the Court to recognize here.

I would say I can't believe -- I mean, it's hard for me to believe that the Court would or should have any problem in quashing a warrant that is predicated upon my failure to appear in response to a notice that was allegedly served on November 9th, which was never served upon me and where, at least to the best of my ability, another Court had prior jurisidiction. And a hearing had been set on November 7th in the Federal Court. At least I made that

application, and I had been in communication with the Attorney General that I think entered an appearance for the Court. I had been in direct communication with the Assistant County Attorney in Hammond that represesnted Darryl Longfellow, and I had every reason to believe that the warrant had been withdrawn.

Now, that is the -- and I cannot believe that --

CHIEF JUSTICE GIVAN: Do you have a question?

JUSTICE DEBRULER: No.

CHIEF JUSTICE GIVAN: Do you have a question?

JUSTICE PRENTICE: No.

CHIEF JUSTICE GIVAN: I believe the Court has heard what you want to say, Mr. Crumpacker. If you will resume your seat, the Court will take a brief recess.

We will retire in the Robing Room. We will attempt to reach a decision here, and we will be available shortly to let you know what that decision might be. You will remain in the custody of the Sheriff pending that time.

(Brief recess.)

CHIEF JUSTICE GIVAN: Mr. Crumpacker, it is the feeling of this Court that we have been exceedingly patient with you in this matter. This has drawn on for quite some time.

MR. CRUMPACKER: Could I be heard just one moment?

CHIEF JUSTICE GIVAN: I think we have reached our decision, Mr. Crumpacker. We might allow you to make a statement after we make our pronouncement here. We would allow you to make a statement, but until that

time, we will proceed with the Court's statement.

MR. CRUMPACKER: Before Your Honor states the ruling, I only want to say that I am prepared to submit testimony under oath supporting what I have said, and further, that I believe that I would like an opportunity to file a verified return --

CHIEF JUSTICE GIVAN: We understand that Mr. Crumpacker. We will proceed and then let you make your statement.

We feel we have been exceedingly fair with you, and we have been patient. We have attempted to permit you tc make very effort to approach this Court in the proper manner, a manner which we know you are very capable of doing, if you so desire. The finding of this Court is that we find no reason to believe that the

hearing on November 15th, 1983 would be stayed by reason of the filings of the United Staes District Courts. We find that the service of notice by Officer Longfellow on November 9th, 1983 was adequate and in compliance with all of the principles of due process.

We further find there is no basis in fact for the responsdent's alleged belief that the arrest warrant had been withdrawn. We further find that all requests by the respondent by mail and through his family were considered an appropriate address by this Court.

We therefore make the following order: Comes now the respondent, Owen W. Crumpacker, and appears pursuant to the warrant for his arrest issued by this Court on November 16th, 1983, to answer why he should not

be held in contempt for his failure to appear on November 15th, 1983, as previously ordered. And this Court being duly advised now finds that the respondent, Owen W. Crumpacker, was served on November 15th, 1983; that the respondent failed to appear as ordered; and that the respondent has not demonstrated that he should not be held in contempt for his failure to appear as ordered by this Court.

In view of the above considerations, this Court now finds that the respondent, Owen W. Crumpacker, has engaged in direct criminal contempt of this Court by failing to appear on November 15th, 1983 as ordered. It is therefore ordered, adjudged and decreed by this Court that the respondent, Owen W. Crumpacker, is sentenced to serve a term of 30 days in Indiana State Farm for direct criminal contempt of this

Court.

Those provisions of law authorizing the diminution of sentence for good time served shall not apply. Done this 4th day of April, 1984, signed, Richard M. Givan, Chief Justice of Indiana.

Mr. Crumpacker, we have further served you the following notice: This notice is captioned in the Supreme Court of Indiana in the Matter of Owen W. Crumpacker, Cause No. 974 S 187, order resetting show cause hearing. The respondent, Owen W. Crumpacker, now appearing before this Court is hereby directed and ordered to appear on May 21st, 1984 at 10:00 A.M. in this Court's chambers, Room 317, State House, Indianpolis, Indiana, for a hearing to show cause why you shall not be held in contempt of an order of the Indiana

Supreme Court as set forth in the verified information of contempt filed in this cause on July 25th, 1983.

It is furtehr ordered that the Clerk of this Court shall forward a copy of this order to the parties in this proceedings. Read to the respondent in open Court and entered this 4th day of April, 1984, signed Richard M. Givan, Chief Justice of Indiana.

Mr. Crumpacker, that is following the expiration of the sentence at Farm. We would expect you to be presnt on May 21st at 10:00 A.M. for the further proceedings in this matter. You will be furnished with a copy of the transcript and proceedings that were held on the 18th of November in this Court, and I believe it was the 18th -- no, the 15th, that we held on the 15th November in this Court. And you will be given ample time to study that

transcript and make your response thereto.

Now, do you have any statements you wish to make, Mr. Crumpacker?

MR. CRUMPACKER: If the Court please, I respectfully ask that the order that Your Honor has just read be stayed to enable me to employ counsel and to take steps to appeal from this decision. I see no harm in permitting a stay to be issued for a reasonable time to enable me to employ counsel and prepare a response, and, if necessary, to ask for bail and to permit me to look after my physical disabilities.

I ask that the order be stayed to enable me to take those steps, and I represent to the Court that unless bail is furnished me and unless a stay is permitted, I would have no means or

method of protecting my legal rights. I do say that if the Court does grant a stay, I will, within 10 days, file a verified return to the order that I just saw today and that the Court does have it within its power to permit me to employ counsel and to return to the Mayo Clinic to take those steps. For that reason, I am asking in conscience that the Court stay the execution of this order for a reasonable time to permit those activities to take place.

CHIEF JUSTICE GIVAN: Mr. Crumpacker, had you responded promptly to this situation back in November, you would be in much firmer footing to make such a request to this Court. But in view of the fact of the delay, in view of the fact that we were required to have this warrant executed by the Sheriff of Lake County and that you had to be transported down here, the Court

will deny your request. You will be remanded to the custody of the Sheriff of this Court for the carrying out of the sentence which we have read. You will be delivered by him to the Farm at his earliest convenience.

(The hearing was concluded at 5:38 P.M. on April 4, 1984.)

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

C E R T I F I C A T E

I, Jamie F. Martin, a Notary Public Stenotype Reporter, do hereby certify that the foregoing transcript is a true and complete account of the proceedings had in this matter as heretofore set forth, to the best of my knowledge and belief.

IN WITNESS WHEREOF, I have hereunto affixed my Notarial Seal and executed my signature below this ____ day of April, 1984.

/s/ Jamie F. Martin
Jamie F. Martin

My Commission Expires:

December 14, 1987

STATE OF INDIANA)		IN THE SUPREME
)	SS	COURT OF THE
COUNTY OF MARION)		STATE OF INDIANA
IN THE MATTER OF)		
)		CAUSE
OWEN W. CRUMPACKER)		NO. 974 S 187

JUDGE'S CERTIFICATE

BE IT REMEMBERED, that on the 23rd day of April, 1984, the Court Reporter used by this Court, Jamie F. Martin, presented and tendered to the undersigned, Richard M. Givan, Chief Justice of the Supreme Court, State of Indiana, this transcript containing the evidence in said cause for settlement and signature, and prayed that the same might be signed and made a part of the record in this cause;

And now, having fully examined this transcript of the evidence, the undersigned does now certify the same to be a full, true, correct and complete

transcript of the proceedings, and that this transcript correctly sets forth and contains all of the evidence given in the trial of said cause.

And this transcript is now settled, approved, signed, and it is hereby Ordered that said Transcript shall be filed and be made part of the Record in this Office of the Clerk of this Court.

IN WITNESS THEREOF, I have hereunto set my hand and affixed the Seal of this court, this 27th day of April, 1984.

/s/ Richard M. Givan
Richard M. Givan
Chief Justice of Indiana

Seal

Filed
Oct. 31, 1983

IN THE

SUPREME COURT OF INDIANA

IN THE MATTER OF	)	
	)	CAUSE No.
OWEN W. CRUMPACKER	)	974 S 187

ORDER RE-SETTING SHOW CAUSE HEARING

This Court, having previously granted Respondent's Verified Petition for Continuance, now, on its own motion, finds that this matter must be again scheduled for hearing to determine the issues set forth under the Verified Information for Contempt and Petition for Order to Show Cause filed by the Disciplinary Commission of the Supreme Court on July 25, 1983, in this cause.

IT IS, THEREFORE, ORDERED, ADJUGED AND DECREED, that the Respondent, Owen W. Crumpacker, appear before this Court at Room 317 (Supreme

Court of Indiana Chambers), State House, Indianapolis, Indiana, on the 15th day of November, 1983, at ten o'clock A.M., for a hearing to show cause why he should not be held in contempt of an Order of the Indiana Supreme Court as set forth in the Verified Information of Contempt filed in this cause on July 25, 1983.

IT IS FURTHER, ORDERED, ADJUDGED, AND DECREED that the Clerk of this Court issue copies of this Order to the Sheriff of this Court and to any Law Enforcement Officer who shall personally serve this Order upon the Respondent, Owen W. Crumpacker of Lake County, Indiana, by reading the same to him and make the return of such service to this court.

All of which is ordered this

31 day of October, 1983.

/s/ Richard M. Givan
RICHARD M. GIVAN
Chief Justice of Indiana

IN THE SUPREME COURT

OF THE

STATE OF INDIANA

IN THE MATTER OF:	)	
	)	CAUSE NO.
OWEN W. CRUMPACKER	)	974 S 187

EXCERPTS FROM
TRANSCRIPT OF PROCEEDINGS
(November 15, 1983)

held in the above matter on November 15, 1983, in the Supreme Courtroom, Indiana State Courthouse, Indianapolis, Marion County, Indiana, before Notary Public Carol A. Karen, RPR/CP.

A P P E A R A N C E S

Chief Justice Richard M. Givan
Justice Roger Owen DeBruler
Justice Donald H. Hunter
Justice Dixon W. Prentice

For the Petitioner

Sheldon Breskow, Attorney
Gregory Fudge, Attorney

For the Respondent

(No appearance)

* * * * * *

MR. BRESKOW: Petitioner rests, your Honor.

CHIEF JUSTICE GIVAN: You rest?

MR. BRESKOW: Yes sir.

CHIEF JUSTICE GIVAN: All right. That will terminate the hearing at this time. The Court will take this matter under advisement.

We will issue you an arrest warrant for Mr. Crumpacker to bring him in the Court and give him an opportunity to read this transcript and to make answers, if he sees fit.

We are not in a position at this time to set a date for that appearance, not knowing when Mr. Crumpacker will be taken in custody on the warrant, but you will be notified of the time that we are able to have further hearing, you will be notified and you will be able to be

present.

MR. BRESKOW: Is the Court inclined to set bond at this time on the warrant?

CHIEF JUSTICE GIVAN: Not at this time. I think we will have Mr. Crumpacker taken in custody and make arrangements for his incarceration, and have the hearing as soon a we can possibly have it following his incarceration.

MR. BRESKOW: Thank you, your Honor.

CHIEF JUSTICE GIVAN: Are there any other questions? Do you have any questions?

MR. BRESKOW: No, your Honor, I don't. May I approach the bench?

(Benchside conference off the record)

CHIEF JUSTICE GIVAN: If there are no other matters before the Court --

I take it there are not?

MR. BRESKOW: There are not, your Honor.

CHIEF JUSTICE GIVAN: Court will rise.

MR. BRESKOW: I'm going to turn the exhibits back to the court reporter at this time on the record.

(Note court adjourned at 4:00 o'clock, P.M.)

Filed
Nov. 16, 1983

IN THE

SUPREME COURT OF INDIANA

IN THE MATTER OF	)	
	)	CAUSE NO.
OWEN W. CRUMPACKER	)	974 S 187

ORDER FOR ARREST

This cause, previously having been scheduled and the Respondent, Owen W. Crumpacker, having been ordered to appear, came to hearing on November 15, 1983. The respondent, being audibly called three times at the scheduled hour, failed to appear.

Upon consideration of the testimony of the witnesses before the Court on the day of hearing, this Court now finds that the Respondent was served on November 9, 1983, with notice of the scheduled hearing and the Respondent failed to comply with this Court's order

to appear and show cause why he should not be held in contempt of this Court. Accordingly, this Court now further finds that probably cause exists for the arrest of the Respondent for his contempt of this Court in not appearing as ordered.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by this Court that an arrest warrant issue forthwith for the Respondent, Owen W. Crumpacker, for his failure to appear on November 15, 1983 at a hearing in this cause as duly ordered.

IT IS FURTHER ORDERED that the Clerk of this Court issue copies of this Order and the Arrest Warrant entered this date to the Sheriff of the Indiana Supreme Court and any other police officer who shall arrest and detain the Respondent, Owen W. Crumpacker, in Marion County jail until he shall be

discharged by this Court.

All of which is Ordered this

16 day of November, 1983.

/s/ Richard M. Givan
Richard M. Givan
Chief Justice of Indiana

Filed
Nov. 16, 1983

IN THE

SUPREME COURT OF INDIANA

IN THE MATTER OF	)	
	)	CAUSE NO.
OWEN W. CRUMPACKER	)	974 S 187

ARREST WARRANT

TO: The Sheriff of the Indiana Supreme Court and any other police officer in the State of Indiana:

You are hereby Ordered and commanded to arrest and detain Owen W. Crumpacker, of Hammond, Indiana, forthwith and hold that person to answer in the Supreme Court of the State of Indiana why he should not be held in contempt for failure to appear as ordered by such Court.

And you are Ordered and commanded to commit Owen W. Crumpacker to the Marion County jail and thereafter

without unnecessary delay bring him before the Supreme Court of the State of Indiana.

IN WITNESS WHEREOF, I, Richard M. Givan, Chief Justice of the Indiana Supreme Court, hereto affix the seal thereof and subscribe my name at Indianapolis, Indiana, this 16 day of November, 1983.

/s/ Richard M. Givan

Richard M. Givan
Chief Justice of Indiana

Filed
April 4, 1984

IN THE

SUPREME COURT OF INDIANA

IN THE MATTER OF)
) CAUSE NO.
OWEN W. CRUMPACKER) 974 S 187

ORDER FINDING CONTEMPT

Comes now the Respondent, Owen W. Crumpacker, and appears pursuant to the warrant for his arrest issued by this Court on November 16, 1983, to answer why he should not be held in contempt for his failure to appear on November 15, 1983, as previously ordered.

And this Court, being duly advised, now finds that the Respondent, Owen W. Crumpacker, was served on November 9, 1983, with notice of the hearing on November 15, 1983, that the Respondent failed to appear as ordered, and that the Respondent has not

demonstrated that he should not be held in contempt for his failure to appear as ordered by this Court.

In view of the above considerations, this Court now finds that the Respondent, Owen W. Crumpacker, has engaged in direct criminal contempt of this Court by failing to appear on November 15, 1983, as ordered.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by this Court that the Respondent, Owen W. Crumpacker, is sentenced to serve a term of thirty (30) days in the Indiana State Farm for direct criminal contempt of this Court. Those provisions of law authorizing the diminution of sentence for good time served shall not apply.

DONE this 4th day of April, 1984.

/s/ Richard M. Givan
RICHARD M. GIVAN
Chief Justice of Indiana

DeBruler, Prentice, J. J., concur.
Pivarnik, Hunter, J.J., not participating.

Filed
April 4, 1984

IN THE

SUPREME COURT OF INDIANA

IN THE MATTER OF	)	
	)	Cause No.
OWEN W. CRUMPACKER	)	974 S 187

ORDER OF COMMITMENT

STATE OF INDIANA	)
	)
COUNTY OF MARION	)

TO THE SHERIFF OF THE SUPREME COURT OF INDIANA AND TO ANY MEMBER OF THE INDIANA STATE POLICE:

This Court, having previously heard testimony submitted on November 15, 1983, and having considered the testimony presented this date, now finds that the Respondent, Owen W. Crumpacker, is guilty of direct criminal contempt of this Court for his failure to appear on November 15, 1983, as ordered.

And this Court now fixes

Respondent's punishment at thirty days to be served in confinement at the Indiana State Farm at Putnamville, Indiana, for the direct criminal contempt of this Court, said confinement to commence on April 4th 1984.

IT IS THEREFORE, ORDERED AND ADJUDGED that the Respondent, Owen W. Crumpacker is guilty of contempt of this Court for failing to appear on November 15, 1983, as ordered and, accordingly, is committed to the Department of Correction for imprisonment at the Indiana State Farm at Putnamville, Indiana, for a period of thirty (30) days from and after the 4th day of April, 1984.

IT IS FURTHER ORDERED that those provisions of law authorizing the diminution of sentence for good time served shall not apply.

DONE at Indianapolis, Indiana,

this 4th day of April, 1984.

/s/ Richard M. Givan
RICHARD M. GIVAN
Chief Justice of Indiana

DeBruler, Prentice, J.J., concur.
Hunter, Pivarnik, J.J., not
participating.

STATE OF INDIANA

TO THE SHERIFF OF THE SUPREME COURT:

You are hereby commanded to transport Owen W. Crumpacker, Respondent under Cause Number 974 S 187, to the custody of the Department of Correction, Indiana State Farm, pursuant to the order of commitment entered this 4th day of April, 1984, in the case of In the Matter of Owen W. Crumpacker.

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

I, /s/ Marjorie H. O'Laughlin, Clerk of the Supreme Court of the State of Indiana, do hereby certify that the attached and foregoing is a true and complete copy of the order

of the court.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 4th day of April, 1984.

/s/ Marjorie H. O'Laughlin
Clerk, Supreme Court

Came to hand _____, 1984.
Respondent delivered to Department of Correction, Indiana State Farm, this _____ day of _____, 1984.

_____
Sheriff

Filed
April 4, 1984

IN THE

SUPREME COURT OF INDIANA

IN THE MATTER OF	)	
	)	Cause No.
OWEN W. CRUMPACKER	)	974 S 187

ORDER RE-SETTING SHOW CAUSE HEARING

The Respondent, Owen W. Crumpacker, now appearing before this Court, is hereby directed and ordered to appear on May 21st, 1984, at 10:00 A.M. in this court's Chambers (Room 317, State House, Indianapolis, Indiana) for a hearing to show cause why he should not be held in contempt of an Order of the Indiana Supreme Court, as set forth in the Verified Information of Contempt filed in this cause on July 25, 1983.

IT IS FURTHER ORDERED that the Clerk of this Court shall forward a copy of this order to the parties in this

proceeding.

Read to the Respondent in Open Court and entered this 4th day of April, 1984.

/s/ Richard M. Givan
Chief Justice of Indiana

DeBruler, Prentice, J.J., concur.
Hunter, Pivarnik, J.J., not participating.

IN THE

SUPREME COURT OF INDIANA

IN THE MATTER OF:	)	
	)	Cause No.
OWEN W. CRUMPACKER	)	974 S 187

NOTICE OF APPEAL

TO: MARJORIE H. O'LAUGHLIN
CLERK SUPREME COURT OF INDIANA

The Defendant Owen W. Crumpacker hereby appeals to the Supreme Court of the the United States from the findng and judgment entered by the Supreme Court of Indiana on April 4, 1984, finding said defendant guilty of direct criminal contempt for failing to appear before the Court on November 15, 1983, and sentencing said defendant to serve a term of thirty (30) days at the Indiana State Farm.

/s/ Owen W. Crumpacker
OWEN W. CRUMPACKER
17 Glendale Park
Hammond, Indiana 46320
Pro-se

DATED THIS 4th day of April, 1984.

CERTIFICATE OF SERVICE

I Owen W. Crumpacker affirm that I have this 12th, day of April, 1984, served upon the Clerk of the Supreme Court of Indiana a true and accurate copy of the foregoing via the regular United States Mail.

/s/ Owen W. Crumpacker
OWEN W. CRUMPACKER
Indiana State Farm
P.O. Box 76
Green Castle, Indiana
46135-0076

cc: Linley E. Pearson
Attorney General of Indiana
State House Indianapolis, IN 46204

Sheldon A. Breskow
Sec: Indiana Supreme Court
Disciplinary Commission
Indianapolis, Indiana 46204

Filed
April 13, 1984

IN THE

SUPREME COURT OF INDIANA

IN THE MATTER OF	)	Cause No.
	)	974 S 187
OWEN W. CRUMPACKER	)	(Original)

MOTION FOR STAY OF PROCEEDINGS AND/OR FIXING OF BAIL PENDING DETERMINATION OF DEFENDANT'S APPEAL TO THE SUPREME COURT OF THE UNITED STATES FROM THE FINDING AND SENTENCE OF THE SUPREME COURT OF INDIANA FINDING DEFENDANT GUILTY OF DIRECT CRIMINAL CONTEMPT AND SENTENCING HIM TO SERVE THIRTY DAYS IN THE INDIANA STATE FARM

TO: The Honorable Richard M. Givan
Chief Justice of Indiana and
the Judges of the Indiana Supreme
Court

Comes now the defendant, Owen W. Crumpacker, pro se, and respectfully represents to the Court as follows:

1. On Wednesday, April 4, 1984, defendant Owen W. Crumpacker was taken in custody in back of his office

in Hammond, Lake County, Indiana, and transported to the Zionsville exit of State Highway I65 where his custody was transferred to Paul Lombardo, Sheriff of the Indiana Supreme Court and a member of the State Police of the State of Indiana;

2. Defendant was delivered up to the Supreme Court at approximately 4:00 P.M. E.S.T.;

3. That said Supreme Court of Indiana consisting of Richard M. Givan, the Chief Justice, concurred in by De Bruler and Prentice, proceeded to find defendant guilty of direct criminal contempt and sentenced him to a jail term of thirty (30) days in the Indiana State Farm;

4. That defendant is a duly qualified candidate for the Office of U.S. Representative, 1st Indiana

Congresional District, in the Republican Primary Election to be held on Tuesday, May 8, 1984;

5. That Defendant is a duly declared and certified Candidate for the office of Precinct Committee man, precinct 17, Ward 4, Hammond, and delegate to the Republican State Convention, Delegate District 21, Hammond, in the Republican Primaries to the held on May 8, 1984;

6. That a copy of Defendant's conviction and sentence is attached hereto and made a part hereof as Exhibit A;

7. That at the time of his conviction and sentence, defendant orally moved for a stay of execution and to be released on bail which motion was perfunctorily denied;

8. That Defendant, as promptly as possible, and while

incarcerated in the Marion County Jail pending being transported to the Indiana State Farm, has prepared and served and filed his notice of appeal to the Supreme Court of the United States from the finding and sentence of the Indiana Supreme Court, a copy of which notice is attached hereto and made a part hereby, as Defendant's Exhibit "B";

9. That time is of the essence, and unless a Stay of Execution is granted or Defendant released on bail, he will have served his sentence before he has an opportunity to perfect his appeal and file his jurisidictional statement in the Supreme Court of the United States;

10. That Defendant will be unable to perfect his appeal to the United States Supreme Court if he is incarcerated in the Indiana State Farm

for thirty (30) days;

WHEREFORE, Defendant respectfully prays that the execution of the finding and sentence be stayed pending the determination of the Defendant's appeal to the Supreme Court of the United States or that the defendant be admitted to bail in a reasonable amount to enable him to perfect his appeal to the Supreme Court of the United States from the finding and sentence entered on April 4, 1984.

/s/ Owen W. Crumpacker
OWEN W. CRUMPACKER, ISF #46490
Indiana State Farm, Box 76
Greencastle, Indiana 46135

VERIFICATION AND PROOF OF SERVICE

OWEN W. CRUMPACKER, under penalty of perjury does hereby swear that the above allegations are true; that the attached Exhibits are full true and correct copies of the originals on file with the Court and that I served a copy of the above and foregoing Motion on the State of Indiana by delivering a copy to Linley E. Pearson, Attorney General, this 13 day of April, 1984.

/s/ Owen W. Crumpacker
OWEN W. CRUMPACKER,
Pro Se

STATE OF INDIANA)
) SS:
COUNTY OF PUTNAM)

Subscribed and sworn to before me, a Notary Public, in and for the County of Putnam, State of Indiana, this 13 day of April, 1984.

MY COMMISSION EXPIRES:

15 May 1987

/s/ Paul D. Jenner
Notary Public
Putnam County Resident

Filed
May 30, 1984

IN THE

SUPREME COURT OF INDIANA

IN THE MATTER OF:	)	Cause No.
	)	974 S 187
OWEN W. CRUMPACKER	)	(Original)

OWEN W. CRUMPACKER, Appellant

v.

INDIANA SUPREME COURT DISCIPLINARY COMMISSION, Appellee

AMMENDED

NOTICE OF APPEAL

MARJORIE H. O'LAUGHLIN

CLERK, SUPREME COURT OF INDIANA

The defendant, Owen W. Crumpacker, hereby appeals to the Supreme Court of the United States from the finding and judgment entered by the Supreme Court of Indiana on April 4, 1984, convicting defendant of direct

criminal contempt for alleged failure to appear before the Supreme Court on November 15, 1983; and sentencing him to serve a term of thirty (30) days in the Department of Correction, Indiana State Farm, without benefit of the good time statutes.

Defendant appeals under 28 U.S.C. § 1257(b) aserting that the procedures adopted by the Indiana Supreme Court are violative of the United States Consititution.

/s/ Owen W. Crumpacker
OWEN W. CRUMPACKER
17 Glendale Park
Hammond, IN 46320
(219) 932-1428
Pro Se

AFFIDAVIT OF SERVICE

STAE OF INDIANA)
) SS:
COUNTY OF LAKE)

OWEN W. CRUMPACKER, under penalty of perjury hereby swears that he mailed copies of the above and foregoing amended Notice of Appeal to the Executive Secretary of the Indiana Supreme Court Disciplinary Commission, Sheldon A. Breskow, Room 814, ISTA Bld., 150 W. Market Street, Indianapolis, IN 46204; the Indiana Attorney Generaly, Linley E. Pearson, Room 219 State House, Indianapolis, IN 46204; and the Chief Justice of Indiana, Hn. Richard M. Givan, Room 312 State House, Indianapolis, IN 46204, simultaneously with the filing of the amended Notice of Appeal with the Clerk.

Dated this 30 day of May 1984.

/s/ Owen W. Crumpacker
OWEN W. CRUMPACKER

FILED
November 9, 1976
Billie R. McCullou
Clerk

IN THE SUPREME COURT
OF THE
STATE OF INDIANA

IN RE: THE MATTER OF)
OWEN W. CRUMPACKER,) 74-S-187
An Attorney)

FINDINGS OF FACT
CONCLUSIONS OF LAW, AND
RECOMMENDATIONS OF HEARING OFFICER

The Indiana Supreme Court Disciplinary Commission filed its Amended Complaint for Disciplinary Action against Owen W. Crumpacker, hereinafter referred to as Respondent, on June 25, 1975. The undersigned was appointed Hearing Officer, qualified and assumed jurisdiction. The Amended Complaint contained 19 Counts. Evidentiary hearing commenced September 29, 1975, and concluded on December 3, 1975. Additional documentary evidence was received up and until the 3rd day of February, 1976. Approximately 31 days were taken up with the evidentiary hearing. Documentary evidence offered and admitted was voluminous. The Disciplinary Commission was represented by Attorneys David B. Hughes and Craig Stevens. Respondent appeared pro se, by counsel Richard A. Miller, and during Respondent's case in chief, by additional counsel John M. Lyons.

As required by law, the Hearing Officer will make findings of material fact, conclusions of law and recommendations. However, before attempting this task, a few preliminary comments and findings

are necessary.

Respondent has practiced law in northern Indiana for over 30 years and until January of 1973, headed the law firm of Crumpacker, Abrahamson and Reed in Hammond, Indiana. The partnership dissolved January 1, 1973; said termination was stormy.

Many of the charges against Respondent can be directly traced to the unsatisfactory partnership termination. There were disputes, and I believe some honest ones, concerning accounts, clients, and pending litigation. These disputes have never been resolved through court action; and the Hearing Officer could not resolve them here.

It was evident from the start that this proceeding wasn't the typical disbarment hearing. For this reason, the Hearing Officer's attitude on the introduction of evidence was liberal. Respondent strongly resented the hearing, which fact made it difficult for all. He honestly believes that many attorneys and Judges are out to crucify him. He further believes that he is one of the few remaining honest attorneys in Lake County, Indiana. Similar to Don Quixote, he attacks the windmills: a crusader.

This case is decided on the merits of each Count. Before undertaking this, it is necessary to note some legal questions which have some merit. Most of these, Respondent discusses in his brief: (A) Questions concerning the

procedures in the investigative stages; (B) Respondent's conduct took place directly in other litigation which is still pending; (C) Partnership disputes have not been resolved; (D) Distinctions between disbarment proceedings and contempt proceedings, and the purposes of both. He believes the "wolf pack" is on the game; this belief has merit. However, his conduct contributed strongly to the situation.

F I N D I N G S

COUNTS I, II, and III:

These charges are connected with the litigation described as Dedelow, Inc. et al -vs- Board of Commissioners of Lake County, et al, Lake Superior Court, Cause No. 171-43, Room 1, Hammond. This litigation was under the Public Lawsuit Statute and was filed in 1971 by Kenneth Reed, law partner in the firm of Crumpacker, Abrahamson and Reed; Respondent was the senior partner of the firm. This basically was Mr. Reed's case and the action was signed by Mr. Reed and also signed in the law firm's name. When the law firm dissolved in January of 1973, the case was pending on appeal; Court of Appeals 871A162. At that time there was no agreement as to who was to proceed with the litigation, nor was there any account of moneys in the litigation. Unsuccessful attempts were made concerning these matters in early 1973 by the former partners and Attorney Fred Donnersberger; who was employed to represent Mr. Kenneth Reed and Mr. Harold Abrahamson in connection with the dis-

solved partnership. Respondent filed a motion for extension of time in which to file an answer brief in the Appellate Court as to who was representing the appellees and therefore, who was entitled to the transcript. Respondent's authority was not challenged by the appellant's attorneys. Various affidavits were filed in the Appellate Court concerning the representation of appellees. The Appellate Court decided this question against the Respondent. The appellees in the lawsuit never specifically authorized Respondent to represent them on appeal. Because time was of the essence, it was Respondent's position he must make every effort to perfect the appeal; he did not wish any clients to suffer because of the partnership disputes. After the Court of appeals decision, Respondent made no further attempts to represent appellees.

The Hearing Officer finds for Respondent on Counts I and II. There was no intentional violation of DR1-102A (1), (4), (5) and (6).

Count III concerns disclosures of "confidences and secrets" of one Richard Klaas. These were supposedly disclosed in Respondent's motion filed before the Court of Appeals. Although the evidence is conflicting, the greater weight of it shows that Respondent received no confidential information from Richard Klaas. Respondent did, in fact, believe the motion which he filed in the Appellate Court. He was attempting to disclose an alleged fraud as a judicial officer. This Count is closely connected with the

partnership termination.

The Hearing Officer finds for Respondent; there is no intentional violation of DR1-102A.

COUNT IV A:

Prior to the termination of the law firm, a Probate estate was opened for Robert C. Croner by Kenneth Reed. When the firm dissolved, there was a dispute concerning this estate. These disputes have not been resolved by the Probate Court; nor have they been resolved in a lawsuit concerning the dissolution of the partnership. The Administratrix did make a demand upon Respondent for the Croner estate file. Respondent refused this demand until there was an accounting by his former partners. The Administratrix did not demand any particular papers in the file.

The Administratrix was not entitled to the entire file; she does not own it. Respondent's conduct did not violate DR1-102A (1), (5) and (6), nor DR9-102B (3) and (4). This dispute should be decided by the Court which has jurisdiction of the estate.

COUNT IV B:

In 1968, a condemnation lawsuit was filed entitled State of Indiana -vs- Abe Kushner, et al, 68-PSC-657 in Porter County, Indiana. Respondent's firm represented the landowners; a written agreement concerning the employment was entered into on August 27, 1968. Res-

pondent did the work in this lawsuit and, by agreement with his clients, the firm received $70,000 after the appraisers award was paid into court. The suit was eventually venued to LaPorte Circuit Court. In the spring of 1974, Respondent and his clients had a disagreement after which the clients demanded the firm's files and the prepaid contingent fee of $70,000. Respondent refused this demand. Subsequently, in March of 1975, this dispute came before the LaPorte Circuit Court, which ordered the Respondent to turn over certain papers and make an accounting. The condemnation lawsuit has never been tried and an appeal is pending concerning the LaPorte Circuit Court's turn over and accounting order.

Based on these findings, the Hearing Officer finds that Respondent did not violate DR1-102A (1), (5) and (6); DR2-110B (4); DR2-110A (3), nor DR9-102B (3) and (4). The evidence shows an honest, good faith dispute between respondent and these clients in that particular lawsuit.

COUNT V:

In July of 1975, Respondent filed an action in Lake Superior Court, Room 5, Hammond, Cause No. 573-448. The suit was to set aside a fraudulent judgment. It was a class action against approximately 40 defendants, including one Richard Klaas. Respondent never personally represented Mr. Klaas. This case is presently pending on appeal, Court of Appeals Cause No. 3174A15. The theory

of the lawsuit is fraud, past and continuing.

Respondent believed the allegations of his complaint. The Hearing Officer is unable to ascertain if his belief was reasonable under the circumstances. This question should not be decided here. In filing the lawsuit Respondent did not violate DR1-102A (1), (5) and (6), or DR5-105A.

COUNT VI:

In 1973, Respondent was searching for a Lake County taxpayer to intervene in a lawsuit. On March 14, 1973, he wrote to Mr. Russell Hopper in furtherance of this purpose. A telephone conversation followed and Mr. Hopper declined the invitation. The two were acquaintances. Mr. Hopper may have participated as a taxpayers' representative for Respondent in the past; the evidence is conflicting on this point. Mr. Hopper did not file a complaint with the Disciplinary Commission or testify at this hearing.

Hearing Officer finds that Respondent's conduct did not violate DR1-102A (1) and (6), nor DR2-103A.

COUNT VII:

A physical confrontation occurred between Respondent and Attorney William Spangler on May 6, 1971. Attorneys and clients were meeting for the purpose of settling some lengthy litigation; this did not take place in court. After some yelling, Respondent took a swing at Mr.

Spangler; no blow struck home. Respondent did not intend to hurt anyone. Charges were not filed resulting from this incident; either criminal, civil or contempt.

Respondent's conduct did not violate DR1-102A (1) and (6).

COUNT VIII:

This involves some uncomplimentary remarks directed by Respondent towards Attorney J. Edward McHie in early 1970. This happened during a deposition. Respondent apologized following the incident and the apology was accepted by Mr. McHie.

Hearing Officer finds that Respondent did not violate DR1-102A (5) and (6).

COUNT IX:

On March 21, 1974, there was a verbal exchange between Respondent and Attorney Richard W. Johnston. This took place in the Lake Superior Court, Room No. 1, Hammond, Indiana, The Honorable Cordell C. Pinkerton presiding. Judge Pinkerton did not testify, nor did the other party present, Attorney Richard W. Johnston. No contempt proceedings resulted from the ncident. There was not a delay or disruption of the court proceedings. Respondent's remarks, which were improper, were reasonably related to the judicial action, in furtherance of his position as an attorney for and on behalf of his clients.

Respondent's conduct did not violate DR1-102A (1), (5) and (6), nor did it violate DR7-106C (6).

COUNT X:

In early 1972, Respondent participated in the taking of a deposition which was often continued and was lengthy. The participants temperament became short near the conclusion. Respondent directed some uncomplimentary remarks towards Attorneys John P. McQuillan and Wilbur J. Glendening. The deposition did, however, proceed in an orderly course to a conclusion. The participants did not file a complaint with the Disciplinary Commission. The circumstances surrounding the incident are not clear.

Respondent's conduct did not violate DR1-102A (5) and (6).

COUNT XI:

Respondent was the attorney for litigants in Lake Circuit Court, Cause No. C71-1384. This was a taxpayers' lawsuit concerning fraud and the case drew much publicity. In June of 1974, Respondent filed a brief in the case and disseminated copies of it to various Judges and attorneys not involved in the lawsuit. The people who received it did not testify, -or make a complaint to the Disciplinary Commission. Local newspapers had previously published other orders about the case. The purpose of Respondent's actions was to gather support for his clients' lawsuit. His conduct

was not prejudicial to the orderly administration of justice, nor did it constitute the making of a prohibited extra judicial statement concerning litigation.

At worst, Respondent exercised poor judgment; he did not violate DR1-102A (1), (5) and (6), or DR7-107G (1), (2) and (5).

COUNT XII:

On July 1, 1974, Respondent wrote a letter to Judge James Moody, Lake Superior Court, Room No. 4. The letter was critical of Judge Moody's handling of a particular case; specifically, a previous order he entered which was sent to the Disciplinary Commission. The Hearing Officer is unable to determine why Judge Moody's order went to the Commission. Respondent's letter went there following the order for the purpose of defending his position; for the same reason, copies went to the news media who had published the order two days after it was executed; someone unknown furnishing it to them. It is evident that the press and public had basically been presented one side of the case shortly before the letter. It is also clear that Respondent, acting for his clients, desired to publish his position. Respondent believed the statements in the letter were true; the reasonableness of such belief is questionable.

Respondent did not violate DR1-102A (1), (5) and (6), nor did he violate DR8-102B.

COUNT XIII:

On August 8, 1974, Respondent wrote to Judge Moody; copies were sent to various other persons. The letter shows the continuing conflict between the two concerning pending litigation. Respondent did not knowingly make false statements in the letter. Again, his intention was to publish his clients' position. Respondent's theory is based on a conspiracy; the evidence supporting this is conflicting. Neither Judge Moody, nor Respondent's adversaries initiated contempt proceedings which would have offered Respondent an opportunity to explain his conduct.

Respondent did not violate DR1-102A (16), nor DR8-102B.

COUNT XIV:

It is alleged that Respondent made improper final oral argument in the case of State of Indiana -vs- John Gallison, N 3013, City Court of Hammond, on May 22, 1973. This was a jury case and concerned blocking a railroad crossing in the City of Hammond. In his argument, Respondent went beyond the scope of the evidence; for this he was admonished by the Court. Respondent and his client did believe the prosecutions against the railroad were politically motivated by the City.

Respondent's conduct did not violate the Disciplinary Rules, specifically DR1-102A (1), (5) and (6), nor DR7-106C (1) and (6).

COUNT XV:

Respondent filed a lawsuit on or about May 3, 1974, entitled Woodmar Realty Company -vs- Samuel C. Ennis and Company, et al, Lake Superior Court, Room No. 5, Cause No. 174-439. The 31 page complaint concerned numerous matters, facets and phases of the Woodmar litigation in Federal and State Courts going back to 1941; this suit is pending at this time. Respondent did, in fact, have authority to file this lawsuit. The contention of the Disciplinary Commission is that the suit was filed for the purpose of annoying and harassing attorneys and party litigants who, in the past, have in one way or another opposed Respondent; the evidence was not sufficient to support their contention. A suit was filed in Federal Court to enjoin the prosecution of the 1974 lawsuit; however, the suit to enjoin it was dismissed and an appeal is pending in the Court of Appeals for the Seventh Circuit. These tribunals have before them the parties in interest with jurisdiction to make necessary determinations.

Respondent's conduct in filing said lawsuit did not violate DR1-102A (1), (5) and (6), nor did it violate DR7-102A (1).

COUNT XVI and XVII:

Respondent was an attorney in DuBios -vs- Union Trust Company of Indianapolis as Trustee, et al, Cause No. 197-60. After pending for 17 years, the case was set for trial on October 12, 1973. On

that date, Respondent filed a motion for substituting certain parties and requested a continuance; both requests were granted by the Honorable Everett West. Judge West and Attorney Fred Donnersberger were not pleased with Respondent's motion. After granting the motion, Judge West imposed sanctions on Respondent; heated argument and accusations followed his decision. Both Respondent and Attorney Donnersberger lost their tempers. No contempt proceedings were initiated against Respondent.

Respondent's actions were not prejudicial to the administration of justice; nor did they cause unnecessary delay in the prosecution of the case. Respondent's conduct did not violate DR1-102A (1), (5) and (6), or DR7-102A (1), or DR7-106C (6).

COUNT XVIII:

The lawfirm of Crumpacker, Abrahamson and Reed received a $7,500 loan from the Mercantile National Bank of Hammond on March 6, 1970. This transaction was initiated by Respondent and was later renewed by other members of the law firm. The loan was for the purposes of out-of-pocket expenses connected with pending litigation which is still pending. After the law firm dissolved, Respondent personally paid the renewal note; this loan is still the subject of a partnership dispute. These moneys were not the clients' funds or property, nor were they aware of the transaction.

Respondent's conduct did not violate

DR1-102A (4).

COUNT XIX:

In 1971 the law firm represented Morris Victor in Victor -vs- Sylvester, et al, Porter Superior Court Cause No. 70-PSC-300. Attorney Harold Abrahamson did the work for Mr. Victor. A settlement was reached under which Mr. Victor was to receive $1,750 from each of two defendants. After one defendant paid his share, Mr. Victor consented that distribution be withheld until the firm received the entire settlement. The other half has never been paid by the defendant. Respondent wished to discuss it; however, Mr. Victor refused this request. Respondent does not believe that he owes Mr. Victor; however, clearly somebody owes him. The Hearing Officer cannot decide this partnership dispute.

Respondent did not violate DR1-102A (1) and (6), nor did he violate DR9-102B (4).

In conclusion, the Hearing Officer has found for Owen W. Crumpacker, the Respondent. The evidence clearly shows that he can be a difficult man; one who has pushed and bullied Judges and attorneys for years. Yet, he has done so as an advocate and with honesty. Unfortunately, many times he is unreasonable and hasty. Surely all professions must deal with difficult personalities. If they are honest and capable, there should be a place in the profession for them.

BEST AVAILABLE COPY

Respectfully submitted,

/s/ Bruce W. Douglas
Bruce W. Douglas, Hearing Officer

SUPREME COURT OF THE UNITED STATES

NO. A-1046

OWEN W. CRUMPACKER,
Appellant

v.

INDIANA SUPREME COURT
DISCIPLINARY COMMISSION

O R D E R

UPON CONSIDERATION of the application of the appellant,

IT IS ORDERED that the time for docketing an appeal in the above-entitled cause be, and the same is hereby, extended to and including September 1, 1984.

/s/ John Paul Stevens
Associate Justice of the
Supreme Court of the
United States

Dated this 13th
day of August 1984.

IN THE

SUPREME COURT OF INDIANA

IN THE MATTER OF	)	
	)	CAUSE
OWEN W. CRUMPACKER	)	NO. 974 S 187

O R D E R

DENYING "MOTION TO STRIKE AND EXPUNGE ORDER TO APPEAR FOR PRONOUNCEMENT OF JUDGMENT FILED ON JANUARY 27, 1982, FOR LACK OF JURISIDCTION OVER THE PERSON OF THE PURPORTED RESPONDENT, OWEN W. CRUMPACKER, AND THE SUBJECT MATTER OF THE PROCEEDINGS".

COMES NOW Owen W. Crumpacker and files his "Motion to Strike and Expunge Order to Appear for Pronouncement of Judgment Filed on January 27, 1982, for Lack of Jurisdiction Over the Person of the Purported Respondent, Owen W. Crumpacker, and the Subject Matter of the Proceedings."

THIS COURT BEING DULY ADVISED IN THE PREMISES now DENIES the "Motion to

Strike and Expunge Order to Appear for Pronouncement of Judgment Filed on January 27, 1982, for Lack of Jurisdiction Over the Person of the Purported Respondent, Owen W. Crumpacker, and the Subject Matter of the Proceedings."

DONE AT INDIANAPOLIS, INDIANA this 5th day of February, 1982.

/s/ Richard M. Givan
RICHARD M. GIVAN
Chief Justice of Indiana

IN THE

SUPREME COURT OF INDIANA

IN THE MATTER OF	)	
	)	CAUSE
OWEN W. CRUMPACKER	)	No. 974 S 187

ORDER OF COMMITMENT

STATE OF INDIANA	)	
	)	SS:
COUNTY OF MARION	)	

TO THE SHIERIFF OF THE SUPREME COURT OF INDIANA AND TO ANY MEMBER OF THE INDIANA STATE POLICE:

This Court, having previously heard evidence submitted on June 29, July 2, July 16, and July 21, 1981, in support of and in opposition to Verified Information for contempt filed in twenty-nine counts by the Disciplinary Commission of this court; having examined and considered the evidence presented at such hearings and filed under this

cause; and having reviewed the pleadings tendered by the parties, including proposed findings of fact presented by each party; now finds that the Respondent, Owen W. Crumpacker is guilty of contempt of this Court in violating this Court's order of disbarment dated November 29, 1978, and guilty of contempt for his conduct during the hearing of this cause on July 2, 1981.

And this Court now fixes Respondent's punishment at ninety (90) days to be served in confinement at the Indiana State Farm at Putnamville, Indiana, for the indirect criminal contempt and a concurrent term of ninety (90) days for the direct criminal contempt of this Court, said confinement to commence on 11th day of February, 1982.

IT IS THEREFORE ORDERED AND ADJUGED that Respondent, Owen W. Crumpacker is guilty of contempt of this

Court for violating its order of disbarment entered November 29, 1978, and for contemptuous conduct during the hearing of this cause on July 2, 1981, and; accordingly, is committed to the Department of Correction for imprisonment at the Indiana State Farm at Putnamville, Indiana, for a period of ninety (90) days for each offense, such terms to be served concurrently from and after the 11th day of February, 1982.

IT IS FURTHER ORDERED that those provisons of law authorizing the diminution of sentence for good time served shall not apply.

DONE at Indianapolis, Indiana, this 11th day of February, 1982.

/s/ Richard M. Givan
RICHARD M. GIVAN
Chief Justice of Indiana

DeBruler, Hunter, Prentice, J.J., Concur
Pivarnik, J., Not Participating

STATE OF INDIANA
OFFICE OF THE CHIEF JUSTICE

Richard M. Givan
Chief Justice of the State

Mr. Paul Jenner
Administrator
Indiana State Farm
Putnamville, IN 46135

RE: Owen W. Crumpacker

Dear Mr. Jenner:

This letter is to verify our telephone conversation today in which you inquired as to whether or not Owen Crumpacker was to receive good time allowance under I.C. 35-50-6-1, et seq.

As you know, the commitment by this Court specifically states that Mr. Crumpacker is to receive no good time allowance. He is to serve a ninety day term of incarceration under the two concurrent ninety day sentences for contempt of court.

In so sentencing Mr. Crumpacker, the court was following the authority

laid down by the Indiana Supreme Court in the case of State v. Shumaker, (1928) 200 Ind. 716, 164 N.E. 408. In the Shumaker case the Court held that contempt of court is not a criminal action and that the power to punish lies entirely within the court and not within the legislative or administrative branch of government.

You will note I.C. 35-50-6-1 specifically refers to "A person imprisoned for a felony ..." is subject to the good time law and I.C. 35-50-6-2 states "A person imprisoned for a misdemeanor ..." is subject to the good time. Mr. Crumpacker has been convicted of neither a felony nor a misdemeanor but has been found guilty of contempt of court. Thus, he does not come under either the good statute or the pardon provisions in the Indiana Constitution.

He is, therefore, to be

incarcerated for the full ninety days stated in the commitment unless otherwise ordered by this Court.

Sincerely yours,

/s/Richard M. Givan
Richard M. Givan
Chief Justice of Indiana

RMG/JA

cc: Hon. Donald H. Hunter
Hon. Roger O. DeBruler
Hon. Dixon W. Prentice
Hon. Alfred J. Pivarnik

FEDERAL CIVIL RIGHTS ACTS

42 U.S.C.A.:

§ 1982. Civil action for deprivation of rights.

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

§ 1985. Conspiracy to interfere with civil rights--Preventing officer from performing duties.

Obstructing justice; intimidating party, witness, or juror

(2) If two or more persons in any State or Territory conspire to deter, by force, iitimidation, or threat, any party or witness in anv court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, petit juror in any such court, or to injure such juror in his person or property on account of any

verdict, presentment, or indictment or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws:

Depriving persons of rights or privileges

(3) If two or more person in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner toward or in favor of the election of any lawfully qualified person as an elector for President or Vice-President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set

forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

§ 1988. Proceedings in vindication of civil rights

The jurisdiction in civil and criminal matter conferred on the district courts by the provisions of this chapter and Title 18, for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisidction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of criminal nature, in the infliction of punishment on the party found guilty.

In any action or proceeding to enforce a provision of sections 1981, 1982, 1983, 1985, and 1986 of this title, title IX or Public Law 92-318, or in any civil action or proceeding, by or on behalf of the United States of America, to enforce, or charging a violation of, a provision of the Untied States Internal Rvenue Code, or title VI of the Civil Rights Act of 1964, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs. (As amended Pub.L. 94-559, §2, Oct. 19, 1976, 90 Stat. 2641.)

BURNS INDIANA STATUTES ANNOTATED
CODE EDITION, COURT RULES, BOOK 2

PART VI, RULES FOR ADMISSION TO THE BAR AND THE DISCIPLINE OF ATTORNEYS

Admission and Disciplinary Rule 23

DISCIPLINARY COMMISSION AND PROCEEDINGS

* * * * *

Section 2. Grounds for Discipline

Grounds for discipline and disciplinary action shall be conduct that violates the Code of Professional Responsibility and the Code of Judicial Conduct and Ethics heretofore adopted by this Court as well as the standards or rules of legal and judicial ethics or professional responsibility adopted from time to time by this Court.

* * * * *

Section 10. Investigatory Procedures

(a) Upon receipt of a written, verified claim of misconduct [hereinafter referred to as "the grievance"], from a member of the public, a member of this Bar or a member of the Commission and completion of such preliminary investigation as he deems appropriate, the Executive Secretary shall:

1. Dismiss the claim with the approval of the Commission, if he determines that it raises no substantial question of misconduct; or
2. If he determines that it does raise a substantial question of

misconduct, send a copy of the grievance by certified mail to the attorney against whom the grievance is filed [hereinafter referred to as "the respondent"] and shall request a written response within twenty [20] days after the respondent receives a copy of the grievance.

In the event of a dismissal as provided herein, the person filing the grievance and the respondent shall be given written notice of the Executive Secretary's determination. In the event of a determination that a substantial question exists, the matter shall proceed to (b) hereinafter. Amended Nov. 30, 1971.

(b) Thereafter, within forty-five [45] days, after notice to the respondent, if the Executive Secretary, upon consideration of the grievance, the preliminary investigation and any response from the respondent, determines there is a reasonable cause to believe that the respondent is guilty of misconduct the grievance shall be docketed and investigated. If he determines that no such reasonable cause exists, the grievance shall be dismissed with the approval of the Commission. In either event, the person filing the grievance [hereinafter referred to as "the complainant"] and the respondent shall be given written notice of the Executive Secretary's determination.

(c) If the grievance is docketed, for investigation, the Executive Secretary shall conduct an investigation of the

grievance. Upon completion of the investigation the Executive Secretary shall promptly make a report of the investigation and his recommendations to the Commission, at its next meetings.

* * * * *

Section 12. Prosecution of Grievances

(a) In the event the Commission determines that the misconduct, if proven, would warrant disciplinary action the Executive Secretary shall prepare a verified complaint which sets forth the misconduct with which the respondent is charged and shall prosecute the case.

(b) The complaint shall be entitled "In the Matter_____", naming the respondent. Six [6] copies shall be filed with this Court. The complaint may be verified on information and belief, and shall be served as in civil actions upon the respondent and the complainant promptly after filing. If the respondent cannot be found, this Court will, upon a proper showing, direct notice to be given by publication as in civil actions.

Section 13. Hearing Officers

In addition to the powers and duties set forth in this Rule, hearing officers shall have the power and duty to:

(a) conduct a hearing on the complaint of misconduct within sixty [60] days after the Commission's determination of reasonable cause;

(b) administer oaths to witnesses;

(c) receive evidence and make written

findings of fact and recommendations to the Court; and

(d) do all things necessary and proper to carry out their responsibilities under this rule.

Section 14. Proceedings before the Hearing Officers

(a) The rules of pleading and practice in civil cases shall not apply. No dilatory motions shall be entertained. The case shall be heard on the complaint and an answer which may be filed by the respondent within thirty [30] days after notice of the filing of the complaint. An answer, if filed, may assert any legal defense. If the respondent shall elect to file an answer, he shall file six [6] copies with this Court. An answer need not be filed, in which case the complaint shall be taken as denied. A respondent may on a showing of good cause petition for a change of hearing officer within ten [10] days after the appointment of such hearing officer.

(b) The complainant and the respondent shall be given not less than fifteen [15] days written notice of the hearing date. The respondent shall have the right to attend the hearing in person, to be represented by counsel, to cross-examine the witnesses testifying against him and to produce and require the production of evidence and witnesses in his own behalf, as in civil proceedings.

(c) The proceedings may be summary in form and shall be without the intervention of a jury and shall be reported.

(d) Within thirty (30) days after the conclusion of the hearing, the hearing officer shall determine whether misconduct has been proven by preponderance of the evidence and shall submit to the Supreme Court written findings of fact deduced by him from the evidence. The hearing officer may submit recommendations concerning the disposition of the case with his findings of fact, but such recommendations shall be given only such weight by the court as it believes to be consistent with a paramount consideration of uniformity of discipline throughout the state. A copy of said findings and recommendations, if any, shall be served by the hearing officer on the respondent and the executive secretary of the Disciplinary Commission, at the time of filing the same with the Supreme Court. This rule shall be effective on and after its adoption. Ammended eff. March 14, 1973.

* * * * *

Section 15. Supreme Court Review

(a) The respondent, complainant or Commission shall have thirty [30] days after the filing of the hearing officers inding and recommendation to petition for a review of the same before the Supreme Court. If no petition for review is filed within thirty [30] days of the finding and recommendation of the hearing officer the Supreme Court shall enter judgment or such other appropriate order in the premises.

(b) Upon receipt of written recommendation for suspension, pending final determination of the cause, this Court may

forthwith enter an order of suspension thereon. Respondent shall have fifteen [15] days thereafter to petition this Court for a review and a dissolution of such order.

(c) In the event that this Court grants a petition under this Section 15, briefs may be filed and oral arguments heard, as the Court shall determine. Such briefs need not conform to the rules of this Court. Upon a review the Court shall determine whether the findings and recommendations of the hearing officer or officers are supported by sufficient evidence and shall enter its judgment, with or without opinions as the Court shall determine.

* * * * *

Section 24. Rules of Procedure

The Commission may adopt rules and regulations for the efficient discharge of its powers and duties. Such rules and regulations shall become effective upon approval by a majority of this Court.

Section 25. Effective Date

This Rule shall be effective as of June 23, 1971. Cases pending before the local and State Bar Association Grievance Committees as of the effective date may be administered and adjudicated by such committees in accordance with the procedures employed by such committees prior to the adoption of this Rule or may be referred by such committees to the Commission for administration and adjudication in accordance with this Rule. Provided further these rules

shall be applicable to all pending disciplinary actions except to the extent that the Court finds their application in a particular case pending when the rules take effect would not be feasible or would work injustice, in which event the former procedure shall apply.

* * * * *

On January 1, 1977, the Supreme Court of Indiana adopted the following Amendment to A & D Rule 23, Section 15:

(c) In the event a party does not concur in a factual finding made by the hearing officer and asserts error in such finding in the petition for review, such party shall file with the petition for review a record of all the evidence before the hearing officer relating to this factual issue. Within thirty (30) days of the filing of the transcript, opposing parties may file such additional transcript as deemed necessary to resolve the factual issue so raised in the petition for review. Any transcript filed must be settled, signed and certified as true and correct by the hearing officer. The fee paid for procuring a transcript or additional transcript shall be included in the costs of the disciplinary proceeding.

EXCERPTS FROM THE
VERIFIED MOTION FOR RELIEF
FROM AND RECONSIDERATION
OF THE DISCIPLINARY ACTION
ENTERED ON NOVEMBER 29, 1978,
SERVED AND FILED ON FEBRUARY 10, 1979

(4) Respondent alleges that he has been denied due process of law as guaranteed him under the 1st and 14th Amendments to the United States Constitution by the Disciplinary Action of November 29, 1978, in each of the following particulars:

(a) The twenty-seven (27) page per curiam "Disciplinary Action" was entered without notice or hearing and in direct violation of the provisions of A & D Rule 23, Section 15. Supreme Court Review, P (c), reading in pertinent part as follows:

"(c) In the event that this Court grants a petition under this Section 15, briefs may be filed and oral ar-

> guments heard, as the Court shall determine. Such briefs need not conform to the rules of this Court. Upon a review the Court shall determine whether the findings and recommendations of the hearing officer or officers are supported by sufficient evidence and shall enter its judgment, with or without opinion as the Court shall determine."

Over an extended period of time, from November 9, 1976, when the Hearing Officer, Judge Bruce W. Douglas, entered Findings of Fact, Conclusions of Law and Recommendations in Respondent's favor, through and including January , 1978, Respondent prepared, served and filed extensive objections, supported by briefs, to the petitions of complainant Saul I. Ruman and the Disciplinary Commission for a review of the hearing officer's findings. Neither the objections nor the petitions for review were ruled upon, and the Court had not granted the petitions for review under Section 15, when the twenty-seven (27) page Disciplinary

Action was filed.

(b) The hearing officer, after extensive hearings, determined that misconduct had not been proven by a preponderance of the evidence with regard to a single one of the XX counts of the amended complaint filed on June 25, 1975. ("(f) Within thirty (30) days after the conclusion of the hearing, the hearing officers shall determine whether misconduct has been proven by a preponderance of the evidence and shall submit to the Supreme Court written findings of fact. Recommendations concerning the disposition of the case may be made by the hearing officer in his discretion. A copy of said findings and any recommendations shall be served by the hearing officer on the respondent and the Executive Secretary of the disciplinary commission at the time of filing same with the Supreme

Court." A & D Rule 23, Section 14, P [f]) Neither the complainant, Saul I. Ruman, nor the Disciplinary Commission questioned the sufficiency of the evidence to support the findings of fact as required by the most recent amendment of Section 15. Supreme Court Review, P (c), reading in pertinent part as follows:

> "(c) In the event a party does not concur in a factual finding made by the hearing officer and asserts error in such finding in the petition for review, such party shall file with the petition for review a record of all the evidence before the hearing officer relating to this factual issue. Within thirty (30) days of the filing of the transcript, opposing parties may file such additional transcript as deemed necessary to resolve the factual issue so raised in the petition for review. Any transcript filed must be settled, signed and certified as true and correct by the hearing officer. . ."

As admitted on the face of the Disciplinary Action, the Court ignored the findings of fact, as authorized by the provisions of Section 15, and relied upon

recitations of evidence from a brief (or briefs) prepared in Hammond, Indiana, after the record and exhibits filed by Judge Bruce W. Douglas on November 9, 1976, were delivered by the commission's attorney, David Hughes, to the complainant, Saul I. Ruman, for the use of Hammond attorneys Harold Abrahamson and Kenneth D. Reed, who were the major fabricators of the XX count amended disciplinary complaint.

(c) Respondent has been denied due process of law under the 14th Amendment in that the Court has taken away his means of earning a living without having accorded him the benefit of a judicial determination of the facts by a judge who had conducted the trial, weighed the testimony, observed the witnesses before him and determined what has been proven and what has not been proven. It ap-

pears on the face of the Disciplinary Action that the Court has undertaken to make its own factual determinations without having seen the witnesses, heard their testimony and weighed the evidence in the manner provided for by the law.

(d) Respondent has been denied due process of law and equal protection of the law in that the Court has failed and refused to follow all of its prior decisions on the subject of necessity of giving full credence to the findings of its hearing officer on disputed questions of fact. In no instance since A & D Rule 23 was adopted has the Court ignored the findings of the hearing officer appointed by it to hear and determine the facts. The Court, in the present instance, has ignored the findings of the hearing officer and has, erroneously, entered findings of its own without a judicial de-

termination of the facts.

(e) The Court, in entering its per curiam Disciplinary Action on November 29, 1978, has ignored all of the pleadings and papers on file in the cause, has ignored the court reporter's transcript of the proceedings in open court during the extensive hearings that commenced on September 29, 1975, and were concluded on December 3, 1975, has ignored the thousands upon thousands of pages of documentary evidence, and has filed its twenty-seven page Disciplinary Action without any consideration of the extensive record filed by Honorable Bruce W. Douglas in support of the Findings of Fact.

(5) Respondent has been denied due process of law in that he has not had the benefit of a fair and impartial tribunal. The complainant, Hammond Attorney Saul I. Ruman, is and has been

since November 19, 1975, the attorney for Judge Alfred J. Pivarnik in a $600,000.00 libel and slander suit filed in the Lake Superior Court, Room No. Four, Gary, under cause no. 475-2328, entitled Alfred J. Pivarnik, et al. vs. Alex Bottos, Elmer L. Jacobsen, Owen W. Crumpacker, Sherman Skolnick and David Glenn Hoffman. On August 21, 1978, Respondent, by his attorney, Richard A. Miller, and as attorney for Elmer L. Jacobsen, former Director of the Northwest Indiana Crime Commission, had filed motions requiring Judge Alfred J. Pivarnik to produce his income tax returns and other financial data. Further, complainant Saul I. Ruman had agreed to produce Alfred J. Pivarnik for discovery deposition purposes in preparation for the trial of the libel and slander suit assigned for trial before a jury on April

23, 1979. Copies of the pertinent pleadings and motion to produce are attached hereto and made a part hereof as Exhibits "C," "D," "E," and "F." In addition, Respondent, on November 29, 1978, was the attorney of record in a civil rights action pending in the United States District Court for the Northern District of Indiana, Hammond Division, under cause no. H77-270, in a proceedings captioned Elmer L. Jacobsen vs. Alfred J. Pivarnik, et al., a copy of the complaint in said action being attached hereto and made a part hereof as Exhibit "G." Further, on November 29, 1978, Respondent was the attorney of record for Elmer L. Jacobsen in an appeal from a decision entered by Judge Alfred J. Pivarnik as Judge of the Porter Superior Court, on August 6, 1975, in a criminal contempt case. Respondent's client, Elmer L. Jacobsen, was

found guilty of criminal contempt and sentenced to thirty-two (32) days in the Porter County Jail without bond. Judge Pivarnik's attorney, Saul I. Ruman, and his associate, Richard J. Lesniak, a law partner of Rudolph Val Dawson, Chairman of the Disciplinary Commission, had intervened on July 21, 1975, allegedly to assist Judge Pivarnik in the orderly disposition of the proceedings. The Court of Appeals of Indiana, on January 15, 1979, rendered a split decision with a majority opinion by George B. Hoffman, Jr., Judge, upholding the criminal contempt convictions. (Elmer L. Jacobsen, Defendant-Appellant vs. State of Indiana, Plaintiff-Appellee, Indiana Court of Appeals, Third District, Cause No. 3-1175 A 247) Prior to May 11, 1977, when Judge Alfred J. Pivarnik was sworn in as Judge of the Supreme Court of Indiana by Gover-

nor Otis R. Bowen, Respondent's client, Elmer L. Jacobsen, had filed a complaint with the Judicial Qualifications Commission of Indiana, seeking to obtain the removal of Judge Pivarnik as Judge of the Porter Circuit Court (and ex-officio judge of the Porter Superior Court) for various acts of alleged misconduct. Among other acts of judicial misfeasance charged, was the issuance of press releases by Judge Alfred J. Pivarnik and his attorney, Saul I. Ruman, in connection with the proposed filing of a libel and slander suit in his own court at Valparaiso, against Reverend ROGER Voegtlin of the Fairhaven Baptist Church, Reverend James Vineyard of the First Baptist Church of Hammond and the First Baptist Church of Hammond, seeking damages in the amount of $1,500,000.00 for alleged conspiracy to libel and slander said

Judge Pivarnik. Complainant Saul I. Ruman has prosecuted the various legal actions for and on behalf of Judge Alfred J. Pivarnik without cost or expense to either the Judge or his family. In the proceedings instituted against Reverend Roger Voegtlin, et al., presently pending in the Jasper Circuit Court at Rensselaer, Judge Alfred J. Pivarnik and his family contend that Respondent Owen W. Crumpacker, his former client, Elmer L. Jacobsen, Alex Bottos, Sherman H. Skolnick and David Glenn Hoffman conspired and confederated with Reverend Voegtlin, Reverend Vineyard and the First Baptist Church of Hammond to maliciously libel and defame Judge Pivarnik and his family. All of these facts and circumstances were fully known to the Court when the Disciplinary Action was filed on November 29, 1978.

(6) Respondent respectfully represents that the Disciplinary Action is replete with material errors of fact which would have been fully demonstrated by Respondent and his counsel had they been given a hearing before the Court. For example, the Court misconstrues and misstates the facts alleged by way of the affirmative defenses and the volumes of documentary evidence, which the Court has not looked at, supporting each and every allegation of the affirmative defenses. For the purpose of establishing, generally, the material errors which the Court has ignored, Respondent has attached representative excerpts from the record, as Exhibits "H" and "I." Contrary to the statements in the Disciplinary Action, the authors of the Disciplinary Commission's brief have ignored not only the testimony of the witnesses on the

issues presented, but have failed to either include or refer to the documentary evidence offered, examined and received in evidence by the hearing officer.

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CLERK

No. 84-337

IN THE

Supreme Court of the United States

October Term, 1984

IN THE MATTER OF OWEN W. CRUMPACKER

OWEN W. CRUMPACKER,

Appellant,

VS.

INDIANA SUPREME COURT
DISCIPLINARY COMMISSION,

Appellee.

ON APPEAL FROM THE SUPREME COURT OF INDIANA

MOTION TO DISMISS OR AFFIRM

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ON APPEAL FROM THE SUPREME COURT OF INDIANA

MOTION TO DISMISS OR AFFIRM

The Appellee respectfully moves the Court to dismiss the appeal herein or, in the alternative, to affirm the judgment

of the Supreme Court of Indiana on the ground that it is manifest that the questions on which the decision of the cause depends are so unsubstantial as not to need further argument.

OPINIONS BELOW

The order giving rise to Appellant's appeal was made and entered by the Supreme Court of Indiana on April 4, 1984. *In the Matter of Owen W. Crumpacker*, Cause No. 974 S 187. Said order found Appellant in direct criminal contempt of such court for his failure to appear on November 15, 1983, at a duly scheduled hearing before that court to determine the issues set forth under a *Verified Information for Contempt and Petition for Order to Show Cause* filed by the Indiana Supreme Court Disciplinary Commission on July 25, 1983, against the Appellant, alleging that the Appellant had continued to practice law after his disbarment. The Appellant had been disbarred from the practice of law in the State of Indiana by order of the Supreme Court of Indiana entered on November 29, 1978. *In Re Crumpacker*, 269 Ind. 630, 383 N.E.2d 36, *cert. denied*, 444 U.S. 979, 100 S.Ct. 481 (1978). As indicated by the foregoing citation, Appellant herein has previously filed a *Petition For A Writ of Certiorari to the Supreme Court of Indiana* challenging the constitutionality of the order of disbarment. Said Petition was denied by this Court.

JURISDICTION

Appellant has failed to raise any substantial federal questions by his appeal and, therefore, has failed to invoke the jurisdiction of the Supreme Court of the United States. Additionally, Appellant has failed to demonstrate by the record or by argument any right to review.

STATUTES INVOLVED

The Appellant has fairly summarized those provisions of the various constitutional provisions, statutes and court rules that he claims have application to the questions presented.

QUESTIONS PRESENTED

The Appellee will respond below in its Argument to each of the six (6) questions presented by Appellant.

STATEMENT OF THE CASE

Appellant's "Statement of the Case" appears on pp. 20-40, inclusive, of his Jurisdictional Statement. A substantial portion of Appellant's Statement is immaterial and irrelevant to the contempt proceeding which is the subject of this appeal. For example, Appellant attempts to relitigate the order of disbarment entered by the Supreme Court of Indiana on November 29, 1978, continually referring to the Court's order and decision as "the 27-page disciplinary action" and as being "void". The record shows that the Appellant was disbarred by order of the Supreme Court of Indiana and that said order was left undisturbed by this Court. *In re Crumpacker*, 269 Ind. 630, 383 N.E.2d 36, *cert. denied*, 444 U.S. 979 (1978). Also, Appellant attempts to relitigate a previous citation and judgment for his contempt of court that was entered by the Supreme Court of Indiana on February 11, 1982. *In the Matter of Owen W. Crumpacker*, ___ Ind. ___, 431 N.E.2d 91, (appeal dismissed for want of a substantial federal question), 459 U.S. 803 (1982).

A more concise and accurate statement of the case than Appellant's 20-page recitation is as follows: The Appellant, Owen W. Crumpacker, was disbarred by order of the Supreme Court of Indiana on November 29, 1978. Thereafter, on January 23, 1981, the Indiana Supreme Court Disciplinary Commission filed its first *Verified*

Information For Contempt and Petition For Order to Show Cause against Appellant, alleging that Appellant continued to practice law in defiance of said order. After several continuances granted on behalf of Appellant, the matter was fully heard and, on February 11, 1982, the Supreme Court of Indiana entered its opinion and order finding Appellant to be in contempt of said court for his defiance of the 1978 Order of Disbarment. The Court also found Appellant guilty of direct contempt as the result of his conduct during that hearing.The Court then ordered that Appellant be committed to the Department of Correction for imprisonment at the Indiana State Farm at Putnamville, Indiana, for a period of ninety (90) days for each offense, said terms to be served concurrently. Said order appears in Appellant's Appendix at A103-105. Appellant served the full ninety (90) day sentence. Thereafter, on July 25, 1983, the Indiana Supreme Court Disciplinary Commission filed its second *Verified Information For Contempt and Petition For Order to Show Cause* against Appellant, alleging that Appellant was *again* practicing law in defiance of the 1978 Order of Disbarment. A hearing in the matter was set for November 15, 1983, and due notice was served upon Appellant. The notice of said hearing appears in Appellant's Appendix at A50-51. Appellant failed to appear at said hearing and, after hearing evidence as to the effectiveness of the service of notice on Appellant, the Court ordered that a warrant be issued for Appellant's arrest for his failure to appear. Said warrant was issued on November 16, 1983, and appears in Appellant's Appendix at A58-60.

On April 4, 1984, Appellant was apprehended in northern Indiana and brought before the Supreme Court of Indiana to show cause why he should not be found in contempt for his failure to appear. The Court found Appellant in contempt, and sentenced him to thirty (30) days at the Indiana State Farm, Putnamville, Indiana. Said order appears in Appellant's Appendix at A63-65. A

hearing on the issues presented in the *Verified Information* filed on July 25, 1983, is pending and has been continued to be rescheduled.

ARGUMENT

The obvious import of Appellant's argument to this Court, as indicated by his six (6) questions presented for review, is that Appellant is continuing in his attempt to relitigate the Supreme Court of Indiana's order of disbarment issued in 1978. Because Appellant refuses to accept the fact that he is no longer licensed to practice law in the State of Indiana, Appellant continues to subject himself to contempt proceedings before that Court by his defiance of said Order of Disbarment.

Appellant first asserts that the provisions of the IV, V, VI, and XIV Amendments to the Constitution of the United States bar the Indiana Supreme Court from "...instituting criminal proceedings, prosecuting them, and convicting him, a private citizen, of the crime of indirect criminal contempt". This question is not presented by the record below. The order that is the subject of this appeal was entered as the result of Appellant's failure to show cause why he should not be found in contempt for his failure to appear at the November 15, 1983, hearing. The *Order Re-Setting Show Cause Hearing* appears in Appellant's Appendix at A50-51. Said hearing was set to determine the issues set forth in the *Verified Information for Contempt and Petition for Order to Show Cause* filed on July 25, 1983, by the Indiana Supreme Court Disciplinary Commission. The record below demonstrates that the Supreme Court of Indiana did not institute or prosecute said contempt proceedings. Appellant fails to raise a substantial federal question by his first question presented for review.

Appellant next asserts, by Question 2, that the procedures employed by the Indiana Supreme Court in

attempting to enforce a prior, valid order are in violation of the Due Process and Equal Protection guarantees of the V and XIV Amendments to the Constitution of the United States. This question is not presented by the record below. The record below demonstrates that Appellant was duly notified of the hearing scheduled to be held on November 15, 1983, and was notified of the purpose of said hearing. The purpose of the hearing was to determine the issues raised in the Indiana Supreme Court Disciplinary Commission's *Verified Information for Contempt and Petition for Order to Show Cause* filed on July 25, 1983. Appellant failed to appear and the Court ordered that a warrant be issued for Appellant's arrest. The warrant was issued on November 16, 1983. Said Order and Warrant appear in Appellant's Appendix at A58-62. Appellant's argument in his Jurisdictional Statement fails to demonstrate any constitutional infirmities in the proceedings below. The Appellant has failed to raise a substantial federal question by his second question presented for review.

Appellant next raises the issue, by Question 3, of whether the Indiana Supreme Court has jurisdiction, "under the Constitution of the United States" and the Constitution and various statutes of the State of Indiana, to "...try a citizen in Indianapolis, Marion County, Indiana, for crimes allegedly committed in Hammond, Lake County, Indiana." This question is not presented by the record below. The arrest and contempt orders issued by the Indiana Supreme Court on November 16, 1983, and April 4, 1984, respectively, represent the Court's efforts to enforce a prior valid order of disbarment duly entered by the Court on November 29, 1978. The proposition that the Supreme Court of Indiana has the power to enforce its orders within the boundaries of the State of Indiana is so plain as to not require citation. The Appellant has failed to raise a substantial federal question by this third question presented for review.

Appellant's 4th and 5th questions have previously been presented to this Court in Appellant's Jurisdictional Statement No. 82-5046, *In the Matter of Owen W. Crumpacker*, ____ Ind. ____ 481, N.E.2d 91, (appeal denied for want of a substantial federal question), 459 U.S. 803 (1982), and are moot.

Finally, in question 6, Appellant contends that he has been relentlessly prosecuted over the past twelve (12) years, and that such prosecution violates the Cruel and Unusual Punishment prohibition of the VIII Amendment to the Constitution of the United States. This question is not presented by the record below. The record below demonstrates that any and all actions brought against Appellant by Appellee, Indiana Supreme Court Disciplinary Commission, have been the result of Appellant's insouciance toward the standards of professional responsibility imposed upon all attorneys in the State of Indiana. Further, Appellant's defiance of the order of disbarment, properly ordered by the Supreme Court of Indiana, caused the subsequent actions against Appellant for contempt. Appellant has failed to raise a substantial federal question by his sixth question presented for review.

CONCLUSION

Wherefore, Appellee respectfully submits that the questions upon which this cause depends are so unsubstantial as not to require further argument, and Appellee respectfully moves the Court to dismiss this appeal, or, in the alternative, that the judgment and order of the Supreme Court of Indiana dated April 4, 1984, should be affirmed.

Respectfully submitted,

/S/ SHELDON A. BRESKOW
SHELDON A. BRESKOW

/S/ DAVID B. HUGHES
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SUPREME COURT OF THE UNITED STATES

OWEN W. CRUMPACKER, APPELLANT *v.* INDIANA SUPREME COURT DISCIPLINARY COMMISSION

ON APPEAL FROM THE SUPREME COURT OF INDIANA

No. 84–337. Decided March 25, 1985

The appeal is dismissed for want of a substantial federal question.

CHIEF JUSTICE BURGER.

I agree that we should dismiss this appeal for want of a substantial federal question, but I would go beyond that. This effort to invoke the Court's jurisdiction on an utterly frivolous claim should subject the attorney who filed the jurisdictional statement to the sanction of Rule 49.2 of this Court.

Appellant Owen W. Crumpacker, formerly a licensed attorney in a Hammond, Indiana law firm was disbarred by order of the Indiana Supreme Court on November 29, 1978. *In re Crumpacker*, 269 Ind. 630, 383 N. E. 2d 36 (1978), cert. denied, 444 U. S. 979 (1979). Appellant continued to practice law despite his disbarment. On February 11, 1982, following a hearing, the Indiana Supreme Court held appellant in contempt for defying the 1978 disbarment order; appellant was also held in contempt as a result of his disruptive behavior during the hearing and served a 90-day sentence for the contempt. *In re Crumpacker*, —— Ind. ——, 431 N. E. 2d 91. His appeal was dismissed for want of a substantial federal question, 459 U. S. 803 (1982).

On release, appellant continued to ignore the Indiana Supreme Court's disbarment order. On July 25, 1983, the Indiana Supreme Court Disciplinary Commission filed another complaint against appellant, alleging that he was again practicing law without a license. After appellant failed to appear at the hearing scheduled for November 15, 1983, de-

spite being duly notified, the Indiana Supreme Court ordered that a warrant issue for appellant's arrest. Appellant was apprehended on April 4, 1984, and brought before the Indiana Supreme Court to show cause why he should not be found in contempt for his failure to appear. After a hearing, in which appellant offered no reasonable explanation for his failure to abide by the disbarment order, the Indiana Supreme Court once again found appellant in contempt and ordered him confined to 30 days in prison.

Appellant's jurisdictional statement filed in this Court launches an utterly frivolous constitutional attack on the Indiana Supreme Court's power to hold him in contempt for ignoring its orders and for disbarring him in 1978. The Indiana Supreme Court's authority over unauthorized practitioners of law is beyond dispute. See, *e. g.*, Ind. Code §§ 33–2—3–1 and 34–4—7–3. On this record there is no conceivable basis for raising any challenge to the order of the Indiana Supreme Court holding appellant in contempt for failing to appear at the November 15 hearing.

I would award appellee $1000.00 against Andrew G. Kohlan, Esq., appellant's attorney, pursuant to Sup. Ct. R. 49.2.*

JUSTICE POWELL took no part in the consideration or decision of this case.

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*Rule 49.2 provides: "When an appeal or petition for writ of certiorari is frivolous, the Court may award the appellee or respondent appropriate damages."